

ORIGINAL TRANSCRIPT

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

* * * * *

UNITED STATES OF AMERICA, NO.: 3:12-CV-219
ET. AL, JEFFREY M. SIMONEAUX,
Relator

VERSUS

JUDGE SHELLY D. DICK

E.I. DU PONT DE NEMOURS AND
COMPANY

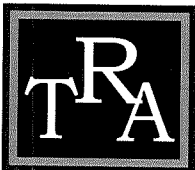
MAGISTRATE JUDGE
RIEDLINGER

* * * * *



The deposition of ELIZABETH CROMWELL-KEYES
Taken on Thursday, the 12th day of December, 2013
Commencing at 12:03 p.m.
at the offices of
Kuchler, Polk, Schell, Weiner & Richeson, LLC
1615 Poydras Street, Suite 1300
New Orleans, Louisiana 70112

REPORTED BY: ELICIA H. WOODWORTH, C.C.R.



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1 APPEARANCES:

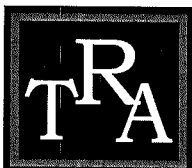
2 REPRESENTING JEFFREY M. SIMONEAUX:

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STIPULATION

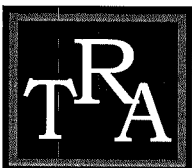
It is stipulated and agreed by and between all parties that the deposition of Elizabeth Cromwell-Keyes is hereby being taken under the Louisiana Code of Civil Procedure for all purposes.

The witness has not waived the right to read and sign the deposition. The original is to be retained by Jane H. Barney, Esquire for proper filing with the Clerk of Court.

All objections, except those as to the form of the question and the responsiveness of the answer, are hereby reserved until the time of the trial of the cause.

* * * *

Elicia H. Woodworth, Certified Court Reporter in and for the State of Louisiana, officiated in administering the oath to the witness.



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1 ELIZABETH CROMWELL-KEYES,
2 Having been first duly sworn, was examined and testified
3 as follows:

4 EXAMINATION BY MS. BARNEY:

5 Q. Hello, Ms. Cromwell.

6 A. Hello.

7 Q. We've met before as you were deposed in the
8 employment case for Mr. Simoneaux; do you recall that?

9 A. Yes.

10 Q. Okay. Could you go ahead and state your full
11 name and address for the record.

12 A. Yes. Elizabeth Cromwell Keyes, K-E-Y-E-S, 37394
13 Overland Trail, Prairieville, Louisiana 70769.

14 Q. Is that a different address from the residence
15 you had the last time you were deposed in -- about two
16 years ago?

17 A. No.

18 Q. Okay. And do you go by Cromwell or Keyes in
19 connection with your work?

20 A. Cromwell.

21 Q. Okay. Since you gave a deposition before, I
22 won't go through all of the rules for a deposition. But
23 if there's anything you want a reminder on, feel free to
24 ask me.

25 Do you need any refresher on the rules, or are



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1 you okay?

2 A. No. I should be okay, but don't hold me to that.

3 Q. Okay. Are you on any medication today that might
4 make it hard for you to understand questions and give
5 accurate questions?

6 A. No.

7 Q. If you answer a question, I'll assume you
8 understood it, but if you don't understand it, please
9 tell me and ask for clarification.

10 A. Okay.

11 Q. What did you do, if anything, to prepare for your
12 deposition today?

13 MS. WATERS:

14 You can tell her you met with me.

15 BY MS. BARNEY:

16 Q. And by that, I mean meet with people, make any
17 notes, read any documents.

18 A. I met with Lori Waters.

19 Q. Okay.

20 MS. BARNEY:

21 And are you representing Ms. Cromwell?

22 MS. WATERS:

23 Yes, I am.

24 MS. BARNEY:

25 Thank you.



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1 MS. WATERS:

2 Those are the documents she reviewed
3 with me.

4 MS. BARNEY:

5 Okay. Thanks.

6 All right. We'll look at those in just
7 a second.

8 MS. WATERS:

9 Okie dokie.

10 BY MS. BARNEY:

11 Q. All right. So you met with Ms. Waters, and when
12 did y'all meet?

13 A. Today.

14 Q. Okay. So this morning?

15 A. Yes.

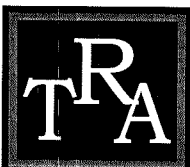
16 Q. And we had gotten together around 11:40 today, so
17 about how many hours would you say before 11:40 you met
18 with Ms. Waters?

19 A. A few hours before.

20 Q. Okay. Have you met with anyone else in preparing
21 for your deposition?

22 A. Not to my knowledge, no.

23 Q. Okay. Have you talked with anybody maybe on the
24 phone or just at DuPont regarding testimony the other
25 person gave or that you may be asked to give, that sort



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1 of thing?

2 A. Not to my knowledge, no.

3 Q. Okay. Have you spoken with Tom Miller since his
4 deposition; do you know?

5 A. Yes, I have because that's part of my job.

6 Q. Okay. Did you talk with him -- you didn't talk
7 with him about anything involved in this case that you
8 know of?

9 A. No.

10 Q. Okay. Your counsel has handed me a few documents
11 that you reviewed in preparing for your depo, and just
12 for the record, I'll give the Bates numbers, DSF 451,
13 DSF 643, DSF 5 through 9, Exhibit H and Exhibit I to the
14 original complaint in this case and Exhibit B to the
15 original complaint in this case.

16 MS. WATERS:

17 I didn't give you my original.

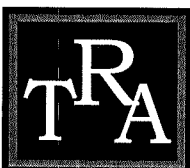
18 (A conversation was held off the record.)

19 BY MS. BARNEY:

20 Q. Before -- well, I guess you reviewed these
21 documents this morning; right?

22 A. Yes.

23 Q. Before this morning, do you recall the last time
24 you had looked at any of these documents if you had seen
25 the documents before?



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1 A. Can you --

2 Q. Let me start over.

3 Was this morning the first time that you had seen
4 any of these documents that you reviewed today?

5 A. No.

6 Q. So you had pretty much seen all of them at some
7 point in the past?

8 A. Correct, yes.

9 Q. Okay. Do you recall seeing them at the time --
10 well, why don't you tell me, when is the last time you
11 saw, for example, the TSCA training module that is
12 Exhibit B to the complaint?

13 A. Today.

14 Q. Before that, when was the last time you saw it?

15 A. I don't recall.

16 Q. Okay. Maybe a year or so? Would it have been an
17 annual training thing or could it have been two or three
18 years since you saw it?

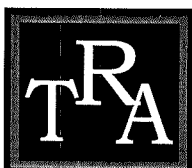
19 A. Huh-uh. It would have been annual.

20 Q. Okay. So you think you saw that as part of like
21 an annual training process?

22 A. It's annual.

23 Q. Okay. And remind me when you got to Burnside --
24 DuPont's Burnside facility in your current position.

25 A. I got to my current position in May of 2010.



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1 That was the same thing that you had asked at the last
2 deposition.

3 MS. BARNEY:

4 Okay. And I'm glad you reminded me of
5 that because we have stipulated, Ms. Waters and I, that
6 we won't go through Ms. Cromwell's the whole background,
7 that we will refer to the background portions of the
8 prior deposition to the extent we need to for this case.
9 We're trying to accommodate Ms. Cromwell's schedule to
10 leave today by 4:00 and we were about 30 minutes late
11 starting the depo, which is my fault, and we just made
12 that stipulation.

13 MS. WATERS:

14 Agreed.

15 BY MS. BARNEY:

16 Q. Okay. Has your position at DuPont changed any
17 since your last deposition?

18 A. No.

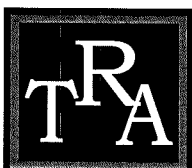
19 Q. And that title that you have now is what?

20 A. Area manager of operations. If I'm not mistaken,
21 you asked me that in the last deposition.

22 Q. Okay. And you still report to Tom Miller?

23 A. Correct, yes.

24 Q. Is there anyone else that you now report to in
25 addition to Tom Miller?



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1 A. No.

2 Q. Has your job responsibilities or day-to-day
3 activities changed any since your last deposition?

4 A. No.

5 MS. BARNEY:

6 Can we go off one second?

7 (A conversation was held off the record.)

8 BY MS. BARNEY:

9 Q. And I believe we just went off the record a
10 second and confirmed your last deposition was June 22nd
11 of 2012, just for the record.

12 A. Correct.

13 Q. What is your understanding of the lawsuit that
14 we're here to talk about today?

15 A. My understanding as far as just knowing about it?

16 Q. Yeah, just your appreciation for what it's about,
17 like the subject matter. What is your understanding of
18 the subject matter of this lawsuit?

19 A. The subject matter of this lawsuit, I would have
20 to review any information that I saw. I don't recall
21 anything.

22 Q. Are you aware that it involves gas leaks at
23 DuPont Burnside?

24 A. Yes.

25 Q. Okay. And we didn't -- I don't believe we talked



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1 about gas leaks at your last deposition, did we?

2 A. Not that I can recall.

3 Q. Not that you can recall, okay. You didn't read
4 your last deposition in preparation for this deposition,
5 did you?

6 A. I did.

7 Q. When did you read that?

8 A. Last week.

9 Q. Okay. What was your first involvement with gas
10 leaks at DuPont Burnside?

11 A. My first involvement?

12 Q. Yes.

13 A. From what standpoint?

14 Q. I guess any standpoint, gas leaks from the acid
15 plant, the CIP, the HIP, the converter, superheater,
16 ductwork and plenums.

17 A. Well, as far as like -- what do you mean as far
18 as like what is -- can you elaborate -- not on the
19 equipment. I understand about gas leaks. What do you
20 -- I guess could you sort of rephrase the question or
21 directly ask what you're looking for.

22 Q. What was your first encounter or awareness or --
23 I guess involvement is the word I keep coming back to --

24 MS. WATERS:

25 Object on involvement.



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1 BY MS. BARNEY:

2 Q. -- with the gas leaks?

3 A. My -- I'm not going to say involvement. Maybe
4 the term -- the only thing that comes to mind is
5 somebody notifying me that there is a gas leak.

6 Q. All right. And do you recall about when that
7 happened?

8 A. No.

9 Q. Do you recall who the first person was who
10 notified you of a gas leak from the acid plant?

11 A. No.

12 Q. Do you recall whether it was during the workday
13 or whether you were called after hours?

14 A. I don't recall.

15 Q. What is your responsibility in connection with
16 gas leaks at DuPont Burnside? And I'm still --
17 throughout the deposition, we're going to be talking
18 about the gas leaks in the acid plant pertaining to the
19 HIP, the CIP, the converter, the superheater and their
20 ductwork and plenums.

21 A. Okay. Can you read the question again?

22 Q. I'll say it again.

23 What's your responsibility with regard to gas
24 leaks in that area?

25 A. What's my responsibility in regard to gas leaks?



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1 Q. Yes.

2 A. What is my responsibility in regard to gas leaks?
3 I guess I'm not responsible for the gas leaks. That's
4 my answer to the question.

5 Q. Okay. Do you have any job responsibilities when
6 there is a gas leak?

7 A. If there is a gas leak and I'm told there is a
8 gas leak, then we try to work on to mitigate the gas
9 leak, whether either I'm told or if I happen to see it
10 on my walk in the plant.

11 Q. Okay. Is there anything else, when you learn of
12 a gas leak, that you need to do as part of your job
13 other than try to mitigate the leak?

14 A. Mitigate the leak? I guess the answer to the
15 question, yes, there would be.

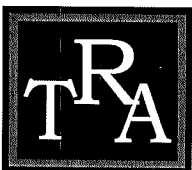
16 Q. What are some of those things or all of those
17 things, if you can list them for me?

18 A. To make sure that there is a first report that's
19 written or some type of notification. At that point in
20 time, work on mitigating the gas leak and go from there.

21 Q. Okay. You said at that point in time. Which
22 point in time are you referring to, or you just mean
23 after a gas leak?

24 A. Correct, after. I'm not being time specific.

25 Q. Okay. Can you tell me the different ways that



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1 you might be told that there's a gas leak?

2 A. Different ways I am told that there's a gas leak.
3 Via phone, in person. That's the only way I know of
4 being told of a gas leak.

5 Q. All right. What about written communication; are
6 there e-mails or other documentation that you might get
7 with regard to gas leaks?

8 A. Possibly. That's another form of being informed
9 of it. I guess when you were saying told, I was -- from
10 a communication, verbal of being told.

11 Q. Sure. Right. And that's fine. I understand.

12 So in terms of the written communication, you
13 could be told via e-mail?

14 A. Not typically.

15 Q. But it's happened?

16 A. Only from Jeff.

17 Q. All right. What about text message; have you
18 been told by text message?

19 A. Not to my knowledge that I can recall.

20 Q. And then I guess you might receive an initial
21 incident report that's prepared by someone and sent to
22 you? Is that another possible way that you would know
23 about a gas leak, or would you always know about it
24 before the initial incident report is written?

25 A. I think that's two questions there.



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1 Q. Yes, it probably is.

2 A. So go with question number one first.

3 Q. Could you be informed by a written communication
4 in the form of an initial incident report about a gas
5 leak the first time?

6 A. Yes, that could happen.

7 Q. And I was just trying to think of the different
8 written communications. We covered e-mail, text,
9 initial incident report. Can you think of anything
10 else, any other types of documents that would convey to
11 you that, hey, there's a gas leak at the acid plant?

12 A. No. Verbal, obviously, if there's a gas leak,
13 verbal would be the most prominent form of
14 communication.

15 Q. Okay.

16 A. That's why I said typically an e-mail. Jeff is
17 the only one that's generated an e-mail to convey a gas
18 leak.

19 Q. All right. As the area manager for operations,
20 you supervise who at the plant? And you don't have to
21 list their names. You can list their positions.

22 A. The operators.

23 Q. Anybody else?

24 A. No.

25 Q. Okay. So would it only be operators who would



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1 advise you either written or verbally about a gas leak,
2 or could that come from other folks at the plant?

3 A. That can come from other people at the plant.

4 Q. Why do you think that Jeff Simoneaux is the only
5 one who has e-mailed you -- why do you think it to be
6 true that Jeff Simoneaux is the only one that e-mailed
7 you about a gas leak? Why does that stand out for you?

8 A. I think that was a question sort of embedded in a
9 question.

10 Q. Yes.

11 A. I don't know why he was, to my knowledge, the
12 only one that sent me an e-mail.

13 Q. Okay.

14 A. I don't know his thoughts.

15 Q. Do you have any responsibility in completing
16 incident reports with regard to gas leaks?

17 MS. WATERS:

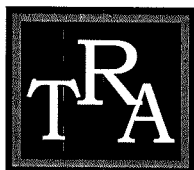
18 Object to form. Which type of report?
19 Just incident investigation?

20 MS. BARNEY:

21 Initial incident reports.

22 THE WITNESS:

23 No, it is not my sole responsibility.
24 It is the responsibility of all of us. We are all
25 entitled to initiate a first report.



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1 BY MS. BARNEY:

2 Q. So if somebody else initiates the initial
3 incident report, and say it's an operator that you
4 supervise, then what is your role with regard to that
5 initial incident report? Do you need to do something if
6 one of your operators initiates an initial incident
7 report?

8 A. Do something as far as?

9 Q. As far as the report.

10 A. Do something with the report?

11 Q. Yes.

12 A. Turn it in to Tom.

13 Q. Okay. So you would just be the conveyor; you
14 would just pass it on?

15 A. I would review the incident report.

16 Q. What if the incident report is handwritten and
17 then -- do you have some responsibility to turn that
18 into a typed-up document or put it on the computer or
19 anything like that?

20 A. Not to my knowledge, no.

21 As far as responsibility?

22 Q. Yes. Is that part of your job to do that?

23 A. I'm thinking about it, because I'm trying to
24 answer your question.

25 Q. That's fine. Take your time. It's okay.



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1 A. I guess it depends. It depends upon reviewing
2 the report, if the information was conveyed
3 appropriately as far as if an incident report had a
4 person's name in the factual information that I
5 typically like to convey that it should be -- just be
6 not anonymous, but remove the person's government name
7 or the individual's name. For example, say "Operator A"
8 or "Mechanic A" or use the word, instead of "he" or
9 "she," say "they" or "the employee" or "the contractor".

10 Q. Okay. So that would be a change you might make
11 if you got a handwritten report that had some names and
12 then you may generate a typed version that was more
13 generic along those lines you described?

14 A. Correct. That's just a scenario that I can think
15 of off the top of my head. That's just an example.

16 Q. Okay. What other issues in a handwritten
17 incident report would prompt you to generate a typed
18 version and maybe change the information in it?

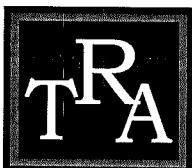
19 A. If it wasn't addressing the information --

20 Q. One second.

21 (A recess was taken.)

22 BY MS. BARNEY:

23 Q. All right. Can you explain what you mean by if
24 initial incident report that's handwritten is not
25 addressing the information. What do you mean by that?



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1 A. It would depend. I say if it means addressing
2 the information, just stating the -- stating the facts
3 and removing any type of -- any type of information.
4 For example, I'm trying to think of -- I'm trying to
5 bridge the information for you. For example, if it --
6 if it stated that something had happened -- and this is
7 just an example -- an employee bumps into a chair and
8 they were reading a book called The Yearling, I would
9 probably take out the fact that the book was called The
10 Yearling, when you're adding additional information that
11 is really not a part of a first report for some key
12 learnings. The Yearling has nothing to with the fact
13 that you bumped into the chair, from my perspective, in
14 my opinion.

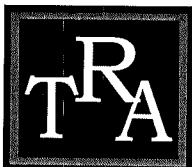
15 Hopefully, that helped you.

16 Q. So sort of extraneous information that's not
17 pertinent to the incident?

18 A. Maybe.

19 Q. Okay. What do you mean by key learnings?

20 A. An incident report is for communication to make
21 people aware of an incident that has happened. And I'm
22 just saying incident because that's part of the name in
23 the report. We say key learnings, and when I say we, in
24 the process or industrial type of environment, you have
25 key learnings so that you don't end up doing something



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1 again. I go back to my example of a person bumping into
2 a chair while reading a book. The key learning that I
3 might draw from that is maybe you should not have been
4 reading a book while you were walking and then maybe it
5 would not have caused you to bump into a chair. That
6 would be the key learning that you would take away from
7 that.

8 Q. Okay.

9 A. Same thing about, you know, if you get into a car
10 accident, there are key learnings that maybe you can
11 learn from that that will present itself so that the
12 next time, you won't get into the same exact accident.
13 Now, that means key learnings.

14 Q. Okay. The operators that you supervise, are they
15 pretty much -- well, let me start over with that.

16 Do the operators work in the control room unless
17 they're out in the field doing something; is that sort
18 of their home base?

19 A. The operators work in the control room and other
20 parts of the plant.

21 Q. Okay.

22 A. So they do not just solely work in the control
23 room.

24 Q. Okay. Are there any other positions at the
25 plant, other types of employees who spend time on a



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1 regular basis in the control room as part of their job?

2 A. No, not that I can think of at this time.

3 Nothing is striking up in my head.

4 Q. So it's sort of an operations-centered room.

5 It's the operators that are really kind of required to
6 be there. It's sort of their domain, I guess?

7 A. The operators spend quite a bit of time in the
8 control room because it's in the control -- the control
9 rooms holds the DCS boards. That does not mean that you
10 can't have other employees in the control room.

11 Q. I guess what I'm trying to get at -- and I could
12 have asked it a better way -- is the control room is
13 sort of -- if you had to say what department the control
14 room kind of fell under, it's operations; is that right?

15 A. No, because I would say the control room is just
16 the place that houses the DCS equipment.

17 Q. Okay. And the operators use that --

18 A. And, therefore, you have E&I personnel that would
19 have just as much investment of your DCS screens.

20 Q. What do you mean by E&I?

21 A. Electrical and instrumentation.

22 Q. Okay.

23 A. Or the mechanics.

24 Q. Okay. So they would be in and out of the control
25 room, also?



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1 A. Correct. I mean, pretty much anybody that's a
2 part of the operations or maintenance process would be
3 in and out of the control room.

4 Q. Okay. The operators keep I think what's been
5 referred to as a red book or a logbook in the control
6 room; is that right?

7 A. Correct, yes.

8 Q. And I think a lot of the log sheets have been
9 produced, maybe all of them back to December 2011. I
10 think we need to double check that for the 2011 part.

11 Is that logbook something that you have access
12 to?

13 A. Yes.

14 Q. When a year changes, like when 2014 comes in a
15 few weeks, what is done with the former year's logbook?

16 A. They sit in the control room. They can sit in
17 the control room or they will stay in my office. Since
18 you wanted copies, I've been keeping them in my office
19 so they don't grow little legs and carry off.

20 Q. I appreciate that.

21 A. That's why, I mean.

22 Q. Okay. So you were involved in helping gather
23 some of the documents that we've requested in this case?

24 A. Yes.

25 Q. Okay. Anything other than the logbooks that



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1 you've assisted in gathering?

2 A. I probably have. I just don't know what I might
3 have gathered.

4 Q. Okay.

5 A. Not saying I don't know as far as
6 information-wise, but I can rattle off to you exactly
7 what I gave. The red books stick out in my mind.

8 Q. Okay. If you got an initial incident report that
9 was handwritten and you wanted to generate a typed
10 version and -- well, let me strike that.

11 Do you always generate a typed version of an
12 initial incident report if it's handwritten, or do you
13 only do that if you need to make the kind of changes we
14 talked about a little while ago?

15 A. In the past or previously, I would generate --
16 me, I would generate typed versions. And I can't speak
17 for anybody else. Then it became cumbersome of me
18 having to, you know, type it out, so now sometimes I'll
19 just photocopy it or scan it and it will be in a PDF
20 version and send it that way.

21 Q. If you did a typed version back when you were
22 doing that, what would be done with the handwritten
23 version of the incident report?

24 A. We'd hold on to them. Sometimes I would hold on
25 to them.



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1 Q. Okay. Where would you keep them, like in a file
2 in your office, or would you scan them onto the
3 computer?

4 A. I'd probably keep them in my office.

5 Q. Okay. Would you distribute those in any way, the
6 handwritten versions?

7 A. No, I wouldn't -- I wouldn't distribute them.

8 Q. Would anybody distribute the handwritten version?

9 A. Possibly.

10 Q. How would that happen?

11 A. The handwritten version would be distributed like
12 a typed version, just the report in general would be
13 distributed.

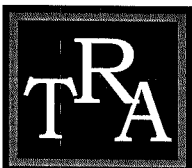
14 Q. You're thinking the typed version would be
15 distributed, or would the one in your file, the
16 handwritten version, get distributed?

17 A. Well, you had asked me, you know, prior and
18 before and now, and so I said in general -- or not even
19 in general, the incident reports are distributed to the
20 masses.

21 Q. All right. So back when you were retyping them,
22 the handwritten version would stay in your office, but
23 the typed version would get distributed; is that right?

24 MS. WATERS:

25 Asked and answered.



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1 THE WITNESS:

2 It depends.

3 BY MS. BARNEY:

4 Q. Okay. What does it depend on?

5 A. It depends on what you're about to show me. No,
6 no. It depends in the sense that sometimes they were
7 retyped. Sometimes they weren't. The ones that were
8 not retyped were in my office. That's pretty much it.

9 Q. Okay. So at some point, you stopped retyping
10 handwritten incident reports and just scanned the
11 handwritten and let that be the official incident report
12 that got circulated; is that right?

13 MS. WATERS:

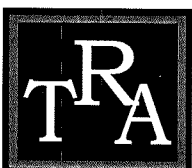
14 Asked and answered.

15 THE WITNESS:

16 Maybe, because sometimes I would give
17 them to Tom. I would give the first report to Tom for
18 review, and after that point in time, it would be
19 communicated to the masses. I would have to look and
20 see and review the incident reports that we have, to
21 know.

22 BY MS. BARNEY:

23 Q. Okay. And that raises a good point. When you
24 distribute the initial incident reports, whether they
25 were the ones you retyped or the handwritten versions,



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1 who did you send them to?

2 A. I didn't send them to anybody.

3 Q. Then how do they get distributed?

4 A. They were sent out by somebody else.

5 Q. Who? By whom?

6 A. The clerk or the admin, the admin person.

7 Q. Okay. That's Latasha Geeson?

8 A. It was who was in that role, either Latasha or
9 Kelsie.

10 Q. Okay. And that's the logistics administrator
11 position?

12 A. Huh-uh.

13 Q. No? What's the name of that position?

14 A. I don't know. That's why I called it a clerk.

15 Q. I thought you just said logistics, but no?

16 A. I said Latasha.

17 Q. Okay.

18 A. I said admin.

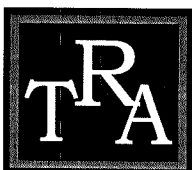
19 Q. Admin. Okay. All right.

20 So you would give the incident reports to her and
21 she would distribute them kind of plant-wide or
22 something?

23 A. Correct.

24 Q. All right.

25 A. They would somehow make it to her and would be



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1 distributed plant-wide; correct.

2 Q. All right. And then sometimes you said you would
3 send the incident report to Tom before that plant-wide
4 distribution?

5 A. Correct.

6 Q. Why would you do that?

7 A. Because he's my boss.

8 Q. What would prompt you to send one report to him
9 ahead of time like that and not send another report
10 ahead of time to him?

11 A. It would just be evolution over time.

12 Q. So at some point in time, you used to send them
13 to Tom Miller first before they went plant-wide and
14 then --

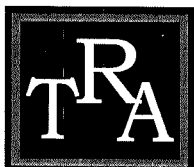
15 A. No.

16 Q. No? Tell me what you meant by evolution over
17 time.

18 A. Evolution over time, maybe before I would just
19 give them to Kelsie and have Tom review them first and
20 then give them to Kelsie or then it became giving them
21 just having Tom review them and then him giving them to
22 Kelsie. Just depends on how I'm feeling that day.

23 Q. So it hasn't really changed over time? It can
24 change just based on how you're feeling that day?

25 A. No. I think, to get down to it, the incident



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1 report is provided to the person who needs to send them
2 plant-wide and it is captured on our server and,
3 therefore, known to everybody else.

4 Q. All right. Right now, for initial incident
5 reports, do you send them first to Tom, then Tom gives
6 them to Kelsie or whoever is going to distribute it? Is
7 that the current process?

8 A. Yes.

9 Q. Okay. When did that start?

10 A. I don't know. I don't recall.

11 Q. When you send the initial incident report to Tom,
12 is it in a format -- it's not a PDF. It's actually on
13 the computer or a document on the server?

14 A. Yes, and/or the actual communication itself.

15 Q. So you might have a PDF of a written
16 communication like --

17 A. It's not -- it wouldn't be in a PDF. It would be
18 in the Word doc.

19 Q. Okay.

20 A. And then it's either provided to Tom that way or
21 the actual handwritten one.

22 Q. Okay. So Tom, if he wanted to, would have the
23 ability to edit the initial incident report before he
24 gives it to Kelsie to distribute?

25 A. I don't know.



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1 Q. It's in a format like a Word document where if he
2 wanted to make changes, he could do that. He wouldn't
3 have to come back to you, in other words.

4 A. Uh-huh, yes. But with that being said, then
5 anybody has the ability to be able to do that.

6 Q. Okay. When you say anybody, who does that
7 include?

8 A. Anybody who has access to the server and those
9 documents.

10 Q. Does that include the operators?

11 A. Uh-huh.

12 Q. Does it include Mark Macha?

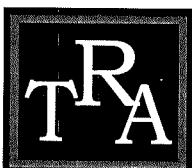
13 A. It includes anybody who has access to the
14 software program, Microsoft Word, and has acces to the
15 server that enables them to read the Word doc file.

16 Q. And my question is does Mark Macha have such
17 access?

18 A. I don't know.

19 Q. Okay. Is the logbook that's in the control room
20 a way for the operators to communicate from one shift to
21 the next to kind of let the next shift know what's going
22 on?

23 A. It's my understanding, yes, that they utilize
24 that. I don't know that for sure. I don't -- I just
25 know that they make relief verbally. As far as solely



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1 relying on the red book for communication, you would
2 have to ask the operators because I think it would be
3 operator-specific. They do include information on
4 there, so I guess I would say that, yes, that is one
5 form of communication.

6 Q. Okay.

7 A. Aside from the general verbal interaction that
8 they would have at shift relief.

9 Q. I believe you said that another way that you
10 might learn about a gas leak is just if you happen to
11 see it while you're walking around in the plant; is that
12 right?

13 A. Uh-huh.

14 Q. How many times would you say that you,
15 personally, have been the one to discover a gas leak in
16 the acid plant?

17 A. I don't recall.

18 Q. Okay. Can you kind of give a ballpark, less than
19 10, more than 10?

20 A. I don't recall.

21 Q. Okay. Can you think of who you would tell once
22 you discovered a gas leak when you were walking around?
23 Who would you tell? Would it be the first person you
24 see that has the ability to do anything about it, or
25 would you seek out a certain person? How does that



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1 work?

2 A. If I had noticed a gas leak -- because I told you
3 I didn't recall how many so I'm just saying if I were to
4 see a gas leak -- I would go to the control room and
5 converse with the operator on the board. Then at that
6 point in time, I would probably engage in conversation
7 with Gene because then he would engage conversation with
8 Mark Macha if there was something else that needed to be
9 done, and based on that, we would go to the next step.
10 That next step would all depend on the scenario.

11 Q. All right. When you're in the control room
12 talking to the operator on the board, at that point,
13 would you tell the operator to cut back the rates on the
14 plant?

15 A. It depends.

16 Q. And what does that depend on?

17 A. It depends on the -- it depends on where
18 potentially the leak is coming from, if process
19 conditions can -- changing process conditions can adjust
20 and mitigate the leak.

21 Q. All right. When you were talking about
22 discovering a leak when you're walking around, were you
23 talking about discovering both SO2 leaks and SO3 or just
24 SO3?

25 A. Well, typically, you don't see SO2.



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1 Q. Okay. And that's what I was asking. Were you
2 doing it based on smell or sight?

3 A. Well, you said if I see a leak, not if I smell
4 one.

5 Q. Okay. So you were referring to SO3 in response
6 to my question?

7 A. A mixture of SO2 and SO3.

8 Q. Okay.

9 A. Just based on where -- it would depend on where
10 it's coming out of.

11 Q. And the fact that you could see it?

12 A. Correct.

13 Q. Okay.

14 A. That's right, because you said see a leak.

15 Q. Right. And you reminded me of that because I
16 didn't recall my question said see it. I thought it
17 might have said notice it or something like that.

18 So you --

19 A. Notice it or see it.

20 Q. So when you were answering my question, you had
21 in your mind seeing the gas leak?

22 A. Correct.

23 Q. What part of the process do you think that there
24 could be an SO3 gas leak from that would not be affected
25 by cutting back the rates on the plant?



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1 A. Can you repeat that again.

2 MS. BARNEY:

3 Can you read it back?

4 (Whereupon the reporter read back the
5 requested information.)

6 MS. WATERS:

7 Did you understand it?

8 THE WITNESS:

9 Yes. I can't think of anything, because
10 if you're cutting back the rates, your leak is going to
11 start to subside because you're reducing the burden of
12 the plant reducing the feed, reducing the flow.

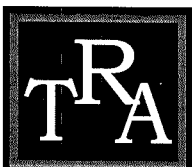
13 BY MR. BARNEY:

14 Q. Okay --

15 A. So you mean cutting back the rates, if I cut the
16 rates back to one ton, then you may not see anything.
17 It would depend.

18 Q. Okay. So I think you had said that when you got
19 to the control room to talk to the operator on the board
20 about a visible gas leak, then whether or not you
21 decided to cut back the rates would depend on whether
22 the area of the plant that was leaking would be affected
23 by a rate cut. I think that's what you said earlier, so
24 I'm trying to get some clarification.

25 If a rate cut is going to diminish any SO3 gas



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1 leak that you see in the acid plant, what other factor
2 would impact your decision as to whether to cut back the
3 rates when you're talking to the operator on the board
4 after you see a gas leak?

5 A. Well, in between my discussion of talking to the
6 operator, shortly or simultaneously getting in touch
7 with the maintenance manager, Gene or Mark.

8 Q. Okay. And I'm just trying to get back to your
9 decision whether to cut back to rates.

10 A. Uh-huh.

11 Q. It sounds like --

12 A. It depends on the scenario.

13 Q. The area of the acid plant is not really going to
14 be a factor because if you cut back the rates, it's
15 going to diminish the SO3 gas leak; right?

16 MS. WATERS:

17 Object to form. Not her testimony.

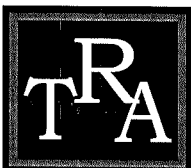
18 BY MS. BARNEY:

19 Q. Is that -- you have to say out loud because of
20 that rule.

21 A. It depends. It depends on the scenario that
22 you're talking about.

23 Q. And I'm going to get to that in a second, but I
24 want to clarify one factor at a time.

25 A. Uh-huh.



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1 Q. If there's a visible SO3 gas leak in the acid
2 plant, I think you just testified that if you cut back
3 the rates, then you're going to diminish the SO3 gas
4 leak; right? There's not a place on the equipment where
5 it wouldn't diminish an SO3 gas leak to cut back the
6 rates on the plant?

7 A. Possibly. I'm not going to say 100 percent.

8 Q. But you can't think of a place where you could
9 have an SO3 gas leak that's visible to you, that
10 wouldn't be diminished by cutting back the rates on the
11 plant; right? I think we just went through that.

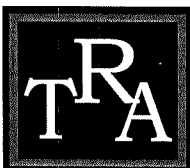
12 A. Possibly.

13 Q. You can't think of one right now; right?

14 A. I cannot recall.

15 Q. So what other factors would you be considering
16 when you're in the control room talking to the operator
17 who's on the board and deciding whether or not to cut
18 back the rates after you see a visible gas leak?

19 A. I would have to answer it would depend on -- it
20 would depend on the scenario. I mean, I think we're
21 getting hung up on the fact that originally when I was
22 answering the question, we were talking about the
23 process and what I'd do if I had noticed a leak and I
24 said it would depend on the scenario, but I did go
25 through some of the steps that I may go through. If I



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1 initiate telling the operator to decrease rates, then we
2 would start to decrease rates and begin to mitigate the
3 leak. If we...

4 Q. Okay. And I guess what I'm trying to understand
5 is when you're trying to make that decision --

6 A. Uh-huh.

7 Q. And I guess before I get to that, it is your
8 decision; right, whether to cut back the rates?

9 A. Is it coming out of my mouth?

10 Q. No. When you're standing in the control room
11 talking to the operator on the board --

12 A. Okay.

13 Q. And maybe you can answer this by telling me the
14 factors that go into the decision. When you're standing
15 there and you're either going to tell the operator at
16 the board to cut back to rates or not, what factors
17 drive that communication from you? Is one of the
18 factors that you have to talk to Tom? Is one of the
19 factors -- you know, I want to know what the factors are
20 in your reaching that decision.

21 A. It would be on my assessment and my decision to
22 cut the rates. When I am telling the operator to cut
23 the rates, I am making that decision.

24 Q. All right. So what factors go into that
25 decision?



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1 MS. WATERS:

2 Asked and answered.

3 MS. BARNEY:

4 I don't have an answer yet, just for the
5 record.

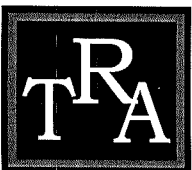
6 BY MS. BARNEY:

7 Q. One factor you mentioned was maybe the location
8 of the equipment, but we got through that factor and we
9 realized that's probably not a factor. So are there any
10 other factors that you can tell me that would go into
11 that decision?

12 A. Well, I'm giving you an answer, but I'm telling
13 you it depends on the scenario.

14 Q. I know. And I'm asking you what the factors are
15 in the scenario.

16 A. But you want to know that -- but you're not
17 giving me a scenario. I guess maybe I'm looking for
18 more of a technical scenario, and because I really don't
19 know that, it's hard for me to sit here and make a
20 decision on whether I would cut the rates or not because
21 when you're asking me, I'm sort of going through a
22 scenario of if that situation were to happen; and then
23 based off of that, that would be my judgement. So I
24 can't -- you know, I'm trying to give you the answer
25 that you're looking for, and I'm telling you that it's



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1 based on my judgment, but unless you give me a scenario
2 that I can put all the factors in to make that decision,
3 that's the answer that I've got to give you.

4 Q. That you just don't know what factors --

5 A. No. It's not that I don't know. You're not
6 giving me a scenario to be able to give you the decision
7 of the factors of whether to cut the rates or not.

8 Q. Well, the scenario was that you're walking
9 through the plant and you're the first one, as far as
10 you know, to notice or see a visible gas leak.

11 A. Uh-huh.

12 Q. And you said that you would walk to the control
13 room and you would talk to the operator on the board.

14 A. Right.

15 Q. Okay. And then I asked you whether at that point
16 you would tell him to cut back the rates to the plant or
17 not.

18 A. Okay.

19 Q. And then under that scenario, the question is
20 what factors would you consider in making that decision?

21 A. I would review the process and it would be based
22 on whether we're able to mitigate the leak or not, and
23 once again, it goes back to what I said. It depends on
24 is the scenario.

25 Q. Okay. When you say able to mitigate, do you mean



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1 mitigate by cutting the rates, or do you mean some other
2 type of mitigation?

3 A. Mitigation -- cutting rates falls under
4 mitigation.

5 Q. Okay. But since -- in this context, you're
6 talking about whether to cut the rates, so you're
7 talking about a different form of mitigation in this
8 answer you just gave me?

9 A. No. I think you talked about cutting the rates.

10 Q. Right. I was asking you --

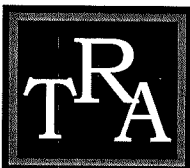
11 A. When would I cut the rates?

12 Q. Right. And one of your -- and I may have gotten
13 confused. One of your answers was based on our ability
14 to mitigate. So if you're deciding whether to cut the
15 rates, then you must be referring to a different way of
16 mitigating the leaks besides cutting the rates because
17 you're at this point in deciding whether to cut the
18 rates; right?

19 A. I think you came to that conclusion based on the
20 fact that I'm talking with the operator and reviewing
21 the process.

22 Q. Okay.

23 A. And so unless I know the scenario to be able to
24 make that decision, this is the answer that we're going
25 with and that -- as far as the barrage of information



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1 that I gave you, that's my answer.

2 Q. Okay. What do you mean by -- when you say that
3 whether or not you cut the rates will depend on whether
4 you're able to mitigate the leak, what do you mean
5 there? What types of mitigation could there be?

6 MS. WATERS:

7 Asked and answered.

8 THE WITNESS:

9 Cutting the rates is a part of
10 mitigation. It's under the umbrella of mitigation.

11 BY MS. BARNEY:

12 Q. So are you saying that you would decide -- well,
13 this is going back I think to what you said earlier. I
14 think what you said earlier was that if you cut the
15 rates, then you will diminish an SO3 gas leak --

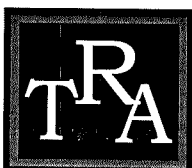
16 MS. WATERS:

17 Assumes testimony --

18 BY MS. BARNEY:

19 Q. -- from the acid plant; is that right? You said
20 you couldn't think of a leak location where that would
21 not occur; right?

22 A. I guess I would have to read all of this stuff to
23 know exactly what I said. I'm just saying. I'm sorry,
24 but that's -- we've gotten so far down the road that, I
25 mean, now we're just -- it's just like round and round



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1 and you want me to ask a particular question that we
2 were talking about two minutes ago. I mean, it's -- the
3 question that you're asking is not clear enough to me,
4 and maybe it's not clear to me because I don't know the
5 particulars of where you want me to get to the -- of
6 what answer you want me to get to.

7 Q. Okay. When you're sitting in the control room or
8 standing in the control room talking to the operator
9 who's on the board after you've seen a gas leak in the
10 acid plant and you're deciding whether or not to cut the
11 rates, what different options are available to you for
12 mitigating the leak?

13 A. For me, from a process standpoint, if I can't
14 adjust any process knobs, then I would have to get in
15 touch with Gene to figure out what else we can do, what
16 else we can do to mitigate.

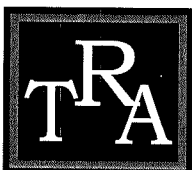
17 Q. Okay. And so are you talking about calling Gene
18 to adjust the hoses and the vacuum system that's trying
19 to suck up the leaks in the acid plant?

20 A. Yes.

21 Q. Okay. When you say adjust the process knobs, is
22 that cutting the rates on the plant?

23 A. Adjusting process variables.

24 Q. Is that the same thing as cutting the rates of
25 the plant?



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1 A. In that sense, no.

2 Q. Okay. What do you mean by adjust the process
3 knobs? What would you be adjusting?

4 A. Adjust the process knobs was more of jargon.
5 Adjust the process variables as far as temperatures, gas
6 flows, to see if it will mitigate the leak.

7 Q. Okay. And that's basically cutting the rates;
8 right?

9 MS. WATERS:

10 Asked and answered.

11 THE WITNESS:

12 Adjusting gas flows, you're not cutting
13 the rates, but that's part of the process options that
14 you have. Cutting the feedstock is a part of the -- one
15 of the process variables that you can adjust.

16 BY MS. BARNEY:

17 Q. That would be part of cutting the rates of the
18 plant?

19 MS. WATERS:

20 Asked and answered.

21 THE WITNESS:

22 All of the stuff I just said before with
23 gas flows and adjusting the rates are part of the
24 process variables to be able to mitigate the leak.

25 BY MS. BARNEY:



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1 Q. Okay. I'm just trying to understand whether --
2 well, are you talking about increasing the temperature
3 or increasing the gas flow?

4 A. It would depend.

5 Q. Yes or no? Are you talking about increasing the
6 temperature?

7 A. No.

8 Q. Okay. And you're talking about increasing the
9 gas flow?

10 A. No.

11 Q. So you're talking about cutting those two
12 variables; right?

13 A. Adjusting those two variables.

14 Q. Downward?

15 A. If that's the word you want to use --

16 Q. No. I'm asking you.

17 A. Well, I'm tell you adjusting. You're putting
18 words in my mouth.

19 Q. I'm asking you adjusting in what direction, up or
20 down?

21 A. You just said down, and I said I'm adjusting
22 them. I'm not -- I'm not increasing the gas flow.

23 Q. So you're adjusting them downward?

24 MS. WATERS:

25 Asked and answered.



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1 THE WITNESS:

2 I'm not increasing the gas flow, so if
3 I'm not increasing it, then what am I doing?

4 BY MS. BARNEY:

5 Q. I'm asking you to answer that question.

6 A. I just answered it for you. I'm not increasing
7 it.

8 Q. So you're adjusting it downward?

9 A. I'm rescinding downward, yes. I'm adjusting it.
10 I'm giving you the information. You can't get agitated
11 at me, Jane.

12 Q. No, I'm not agitated.

13 Other than making those adjustments to the
14 process, calling Gene to work with the hoses and the
15 vacuum system that's attached to the gas leaks, are
16 there any other options you would have available to you
17 in attempting to mitigate the leak?

18 A. Not that I can recall.

19 Q. I guess another option -- and it may not be
20 considered a form of mitigation, but another option
21 would be to shut down the plant; right?

22 A. That was sort of like a combo question.

23 Q. You're standing in the control room talking to
24 the operator after you've witnessed a gas leak in the
25 acid plant. One option available to you, in light of



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1 having seen that gas leak, is to shut down the plant; is
2 that right?

3 A. Yes.

4 Q. And there have been times where you've seen a gas
5 leak in the acid plant, gone to the control room, talked
6 to the operator at the board and decided not to cut back
7 the rates on the plant; right?

8 A. Yes.

9 Q. Okay. Can you think of how many times since
10 you've been at DuPont Burnside that you've made the
11 decision to cut back the rates in response to a gas leak
12 that you have seen, that you've been the one to notice?

13 A. I don't recall.

14 Q. Okay. Can you recall ever making that decision
15 under that circumstance?

16 A. I don't recall.

17 Q. So, no, you can't think of a time where you did?

18 MS. WATERS:

19 Asked and answered.

20 THE WITNESS:

21 I don't recall.

22 BY MS. BARNEY:

23 Q. You don't recall whether there was one time or no
24 times?

25 A. You asked me that beforehand.



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1 MS. WATERS:

2 Asked and answered.

3 THE WITNESS:

4 I don't recall. On this particular
5 question that you're asking me, I don't recall.

6 BY MS. BARNEY:

7 Q. Okay. Do you recall receiving -- well, let me
8 strike that.

9 Do you ever recall any decision that you've made
10 with regard to gas leaks -- while you were physically at
11 the site, do you ever recall any decision you've made
12 about gas leaks being overridden by Tom Miller?

13 A. No, I do not recall.

14 Q. Okay. I imagine there are times when you've
15 gotten called about gas leaks when you are not present
16 at the Burnside plant; is that right?

17 A. Yes.

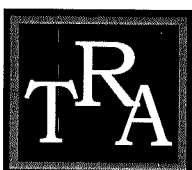
18 Q. Can you think of how many times you've received
19 phone calls about gas leaks when you weren't physically
20 at the plant?

21 A. I do not know that number.

22 Q. All right. Do you think it's less than 20, more
23 than 20, or you can't ballpark it?

24 A. I can't ballpark it.

25 Q. And when I say received, I mean the call came to



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1 you, but I'm not limiting it to whether or not you
2 actually answered the phone, so if you're -- does that
3 help any in arriving at the number?

4 A. No.

5 Q. When you get calls after hours from people at the
6 plant about a gas leak, is there always a voicemail left
7 for you, or is there sometimes just a missed call?

8 A. Can you ask that question again?

9 Q. Can you think of a time where somebody at the
10 plant -- I guess it's mainly going to be operators, but
11 anybody at the plant calls you after hours to tell you
12 about a gas leak, for the most part, do you have a
13 voicemail or do you just have a missed call and you
14 learn about the question later?

15 MS. WATERS:

16 Object to form.

17 THE WITNESS:

18 No, because for the most part, I answer
19 the phone and I speak to them directly.

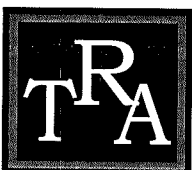
20 BY MS. BARNEY:

21 Q. All right. So have you ever gotten voicemails
22 about gas leaks at the plant when you weren't there?

23 MS. WATERS:

24 Object to form. Assumes facts.

25 THE WITNESS:



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1 I don't recall.

2 BY MS. BARNEY:

3 Q. Okay. So if other people have said that a lot of
4 times when they call you after hours, you don't answer
5 the phone, would you dispute that?

6 MS. WATERS:

7 Object to form.

8 THE WITNESS:

9 You said -- when you say a lot of
10 people?

11 BY MS. BARNEY:

12 Q. If other witnesses who we've deposed or talked to
13 in connection with this litigation say that their
14 experience has been that when they call you after hours,
15 you frequently don't answer the phone --

16 MS. WATERS:

17 Object to form. Assumes facts.

18 BY MS. BARNEY:

19 Q. -- would you dispute that?

20 A. I would not dispute the only person that has
21 stated that to me is Jeff.

22 Q. Okay. I'm not understanding your answer.

23 So I guess the question is would you dispute --
24 you would only dispute it if Jeff said it; is that what
25 you're saying?



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1 A. No.

2 Q. Okay. So you would dispute anyone's testimony,
3 you would disagree with anyone's testimony who said that
4 in their experience when they tried to call you after
5 hours, you didn't answer the phone?

6 MS. WATERS:

7 Same objection.

8 THE WITNESS:

9 I would dispute it to the extent that --
10 depending on their particular experiences, I would
11 possibly dispute the experiences that they may mention.

12 BY MS. BARNEY:

13 Q. Okay. Did Jeff Simoneaux ever advise you that he
14 e-mailed you because sometime he can't get you by phone
15 when you're not at the plant?

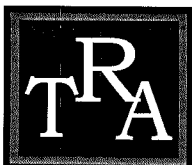
16 A. Can you repeat that again.

17 Q. Did Jeff Simoneaux ever tell you that sometimes
18 he e-mails you because he can't get you by telephone at
19 the plant when you're not at the plant?

20 A. Yes.

21 Q. Do you recall what you said in response to that?

22 A. I told him that there are times that I'm unable
23 to answer the phone and that I might be in the shower; I
24 might be in the bathroom. I might be driving and I'm
25 just not able to get to it, and he responded in, "Yeah,



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1 you're right."

2 Q. Okay.

3 A. But, yet, he still had an issue.

4 Q. What do you mean by he still had an issue? What
5 does that mean?

6 A. He had an issue with me not returning -- he felt
7 that I didn't return his phone calls in a timely manner.

8 Q. And so when he really needed to get you, he would
9 send an e-mail; is that what he told you?

10 A. I don't recall him telling me that, that he would
11 now communicate e-mail communication, no.

12 Q. Okay. Let me show you document that we will mark
13 as Exhibit 1 to your deposition. This is Bates number
14 Simoneaux Qui Tam 164. It's also a version of just the
15 original.

16 MS. WATERS:

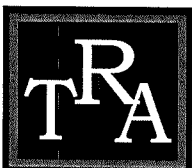
17 Okay.

18 (Whereupon a document was marked for
19 identification as Exhibit Number 1.)

20 BY MS. BARNEY:

21 Q. I'm showing you Bates number Simoneaux Qui Tam it
22 says 164. Simoneaux Qui Tam 164 is the Bates number,
23 and does that appear to be an e-mail from Jeff Simoneaux
24 to you dated February 1st, 2012 at 7:26 p.m.?

25 A. Yes.



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1 Q. And you recall receiving this e-mail?

2 A. Yes.

3 Q. Okay. Do you have or did you have at this time a
4 phone that allowed you to get e-mails on your phone?

5 A. Yes.

6 Q. Do you recall where you were when you received
7 this e-mail?

8 A. I was at a business meeting.

9 Q. Where was the business meeting?

10 A. At a restaurant.

11 Q. All right. Do you remember which restaurant?

12 A. Mike Anderson's.

13 Q. Is that in Gonzales?

14 A. Yes, it is.

15 Q. And who all was there?

16 A. I don't recall everybody that was there. I just
17 remember Tom being there. I know there were other
18 people there.

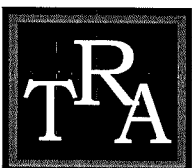
19 Q. Okay. So Tom Miller, the plant manager?

20 A. Uh-huh.

21 Q. And you don't recall anybody else?

22 A. I just remember Tom Miller being there. I don't
23 recall anybody else. I don't recall at this time
24 anybody else. I know there were other people there.

25 Q. That you were meeting with?



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1 A. Correct. I just don't remember who. I just know
2 that Tom was there.

3 Q. Okay. Do you know what company the people were
4 from?

5 A. No.

6 Q. All right. So you got this e-mail while you were
7 at the business meeting and it basically says that
8 there's a gas leak -- SO3 gas leak on top of the CIP
9 exchanger; is that right? That's one thing it says;
10 right?

11 A. Yes, it does state that.

12 Q. And they said they tried to increase the vacuum
13 that's going to the hoses; is that right?

14 A. Correct.

15 Q. And those are the black plastic hoses that
16 Burnside has been trying to use to suck up the gas
17 leaks; is that your understanding?

18 MS. WATERS:

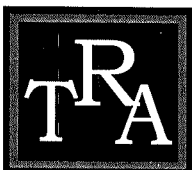
19 Object to the use of the word "trying".

20 THE WITNESS:

21 We used the hoses to reclaim the gas
22 back into the process.

23 BY MS. BARNEY:

24 Q. Okay. And if the testimony has been that that's
25 an attempt and that there's no way to say that it's



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1 actually reclaiming all of the gas, would you dispute
2 that?

3 MS. WATERS:

4 Object to the form.

5 THE WITNESS:

6 Yes, I would.

7 BY MS. BARNEY:

8 Q. Okay. So your testimony is under oath that the
9 black plastic hoses and the metal boxes have captured
10 all of the SO3 gas from the leaking vessel and that none
11 has escaped?

12 A. No. You asked me if I would dispute it, and I
13 said yes. Now you're asking me a different question.

14 Q. What is the basis for you disputing it?

15 A. On the grounds that depending on the situation,
16 depending on the scenario, depending on the case.

17 Q. So you can't say that the black plastic hoses and
18 the metal boxes and the vacuum systems have captured all
19 of the SO3 gases leaked from the vessels; right?

20 MS. WATERS:

21 Asked and answered.

22 THE WITNESS:

23 No. You were asking me before if I
24 would dispute it. You were just asking me for my
25 opinion, so if you don't want me to say if I'm going to



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1 dispute it or not, then I guess maybe you shouldn't ask
2 me that question. I don't -- I mean, I can answer that
3 second question that you wanted me to ask and maybe I
4 have a different answer.

5 BY MS. BARNEY:

6 Q. Are you the go-to person at DuPont Burnside for
7 the functioning of the black plastic hoses or the metal
8 boxes at DuPont Burnside?

9 A. No.

10 Q. I'm sorry?

11 A. No.

12 Q. So Lonnie Blanchard would be in a better
13 position -- or strike that.

14 Lonnie Blanchard's job responsibility -- strike
15 that.

16 Lonnie Blanchard has more responsibility for that
17 at DuPont Burnside than you would; right?

18 MS. WATERS:

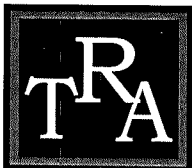
19 Object to form.

20 THE WITNESS:

21 No.

22 BY MS. BARNEY:

23 Q. Okay. So you're saying that it's your
24 responsibility to maintain the black plastic hoses and
25 metal boxes at DuPont?



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1 A. No. You asked me if it was his responsibility.
2 I just said no, that it wasn't his responsibility for
3 the hoses.

4 Q. Okay. He works very closely with the hose and
5 box and vacuum system; is that right?

6 A. Yes.

7 Q. Okay. And you do not; is that right?

8 MS. WATERS:

9 Asked and answered.

10 THE WITNESS:

11 No, I do not physically deal with those
12 hoses.

13 BY MS. BARNEY:

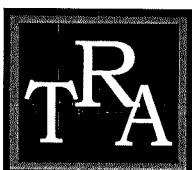
14 Q. Okay. So in this e-mail, Mr. Simoneaux is asking
15 for you to address the current situation that he's
16 already taken some steps to try to deal with the leak
17 and he's asking for your involvement; is that right?

18 A. Yes. That's what it appears in this e-mail.

19 Q. Do you know whether Mr. Simoneaux first called
20 you on your cell phone while you were at this business
21 meeting and before he sent this e-mail, or do you know
22 one way or the other?

23 A. He did not call me.

24 Q. Okay. And you have a specific recollection of
25 that?



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1 A. Yes.

2 Q. Okay. And how do you have such a specific
3 recollection of that?

4 A. Because I spoke to him that evening.

5 Q. After the e-mail?

6 A. Yes.

7 Q. Okay. What did you -- why does that help you
8 remember that he didn't call you before the e-mail?

9 A. Because I stated to him why did he not give me a
10 call versus sending me an e-mail.

11 Q. Okay.

12 A. If there's a leak going on, he didn't he call me
13 -- why did he not call me instead of sending me an
14 e-mail at 7-something at night when he had no knowledge
15 that I was attending a business meeting. So at this
16 point in time, I could have been at home not available
17 to check my e-mail. He didn't call and I stated to him,
18 "Why didn't you call?"

19 Q. Okay. But you got this e-mail promptly after it
20 was sent; right?

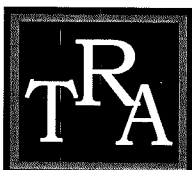
21 MS. WATERS:

22 Object to form.

23 THE WITNESS:

24 I don't know.

25 BY MS. BARNEY:



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1 Q. You don't remember that part?

2 A. You just asked me if I got it promptly and I told
3 you I don't know. I don't know how long it takes the
4 little e-mail ions to -- neurons to move across to
5 translate an e-mail over to me. I don't know, so I
6 don't know that information. The only thing I do know
7 is the time that he sent it.

8 Q. And so you opened it in close proximity to the
9 7:26 time that's on this document?

10 A. Yes.

11 Q. All right. When you talked to Mr. Simoneaux
12 after receiving this e-mail, was that the first thing
13 you addressed with him is why he sent the e-mail instead
14 of calling, if, in fact, he didn't call?

15 A. He didn't call me. I stated to him, "Why didn't
16 you give me a call?"

17 Q. Okay.

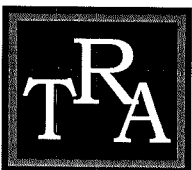
18 A. Because we have a good working relationship and
19 good rapport and so I asked him, "What's up?" You know,
20 "What's going on? Why didn't you give me a call?"

21 Q. All right. And that was the first thing you
22 addressed with him when you spoke with him?

23 MS. WATERS:

24 Asked and answered.

25 THE WITNESS:



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1 I said, "What's up?"

2 BY MS. BARNEY:

3 Q. I know. And I'm trying to understand is the
4 first topic of your discussion --

5 A. No, no, because I said, "What's up?" What's up,
6 like just terminology of what's up. Like I call --
7 like, example, I call you and you sent me this e-mail
8 and so I'm calling you. It's not like I'm -- you know,
9 usually, if I'm calling you and I get in touch with you,
10 "Hey, what's up?" Your response to me should be --
11 obviously, you want to talk to me about something if I'm
12 telling you what's up. So when I called him and I said,
13 "Hey, Jeff. What's up?"

14 Q. Okay.

15 A. Maybe he doesn't do it like that, but that was my
16 rationale. After that point in time, I said, "Why
17 didn't you give me a call?"

18 Q. So you said, "What's up," and then what did he
19 say?

20 A. He went over the gas leak information.

21 Q. Okay. And when you had this discussion with
22 Jeff, was Tom Miller there with you?

23 A. No.

24 Q. Where were you at that point?

25 A. In my car.



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1 Q. All right. And when you got the e-mail, you
2 discussed it with Tom Miller?

3 A. Yes.

4 Q. All right. Tell me about what. What did y'all
5 talk about?

6 A. We just reviewed the information over the e-mail.
7 I don't recall what our conversation was.

8 Q. Okay. You don't recall anything about that
9 conversation?

10 A. We reviewed the information in the e-mail, but I
11 don't recall the conversation.

12 Q. Okay.

13 A. I don't recall the information of the
14 conversation.

15 Q. Did you discuss with Tom Miller the fact that it
16 was an e-mail instead of a phone call?

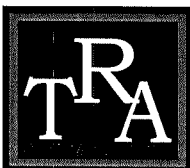
17 A. I don't recall.

18 Q. Did you discuss with Tom Miller whether one of
19 you was going to go to the plant at that point?

20 A. I don't recall. He just mentioned that he would
21 stop by the plant.

22 Q. Well, that's what I was asking. So Tom Miller --

23 A. Well, I said I don't recall because I don't know
24 how that transaction went, so I said I don't recall to
25 that. But I followed up with, yes, he did offer to go



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1 to the plant, so...

2 Q. And so you --

3 A. And the only reason why I know -- let me just get
4 it out there. The only reason why I know was because I
5 didn't go out there, so he went out there.

6 Q. So there was some discussion about who would go
7 to the plant?

8 A. I don't recall. I just know he stated he was
9 going to go -- that he was going to stop by the plant.

10 Q. Okay. All right. So when you called Mr.
11 Simoneaux back from the car -- well, before I get to
12 that, did Tom Miller tell you why he was going to the
13 plant?

14 A. Based on the information from the e-mail.

15 Q. Did he say anything about it? Did he say I want
16 to go talk to Simoneaux or I want to go -- what did he
17 say why he was going to the plant?

18 MS. WATERS:

19 Asked and answered.

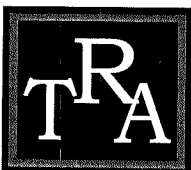
20 THE WITNESS:

21 He was going to the plant based off of
22 the information from the e-mail.

23 BY MS. BARNEY:

24 Q. I don't know what that means.

25 So did he convey to you a reason why -- I'm not



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1 talking about the e-mail. Did Mr. Miller convey to you
2 a reason that he was choosing to go to the plant?

3 A. You would have to ask him his thought process,
4 but I know he went to the plant based off the
5 information from the e-mail, and I do not recall the
6 conversation that we had that got to that point.

7 Q. So you do not recall him telling you why he was
8 going to go to the plant?

9 MS. WATERS:

10 Asked and answered.

11 BY MS. BARNEY:

12 Q. Right? Is that what you're saying?

13 A. I don't recall.

14 Q. So when you get in the car, then you call Jeff
15 Simoneaux; right?

16 A. Correct.

17 Q. And then you say, "What's up," and he says what?

18 MS. WATERS:

19 Asked and answered.

20 THE WITNESS:

21 We reviewed the information of the leak.

22 MS. BARNEY:

23 Okay.

24 THE WITNESS:

25 I mentioned that. I just mentioned that



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1 like two sentences ago.

2 BY MS. BARNEY:

3 Q. All right. And did you ask him what do you think
4 we should do?

5 A. Say that again.

6 Q. After he relayed the information about the leak,
7 did he ask you -- did you ask him what he thought should
8 be done?

9 A. No, I don't recall that.

10 Q. Okay. What did you say?

11 A. I don't recall the full nuances of that
12 conversation.

13 Q. But you know that you didn't ask him what should
14 be done?

15 A. Yes, I know I didn't ask him what should be done.
16 We discussed what could be done about the leak as far as
17 cutting rates if necessary, but I don't know the exact
18 conversation verbatim.

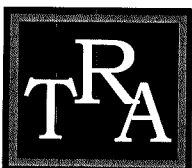
19 Q. Okay. And did you give him the option to cut the
20 rates or suggest that that was a better option than
21 shutting down?

22 MS. WATERS:

23 Object to form. Assumes facts.

24 THE WITNESS:

25 Well, you're saying like two pieces



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1 within the conversation, so did you -- so repeat that
2 little -- because I don't think you're really asking me
3 a question. I think you were like commenting on the
4 conversation.

5 BY MS. BARNEY:

6 Q. Did you authorize him to go ahead and cut the
7 rates on the plant?

8 A. Yes.

9 Q. And did he say, "Okay. Fine. I'm going to do
10 that"?

11 A. He agreed to it.

12 Q. And do you recall whether it was your
13 recommendation or his recommendation?

14 A. That was my recommendation.

15 Q. To cut the rates?

16 A. That was my recommendation.

17 Q. And do you recall who raised the issue first
18 about cutting the rates, Jeff or you?

19 A. Who raised the issue about -- you just said who
20 made the decision to cut the rates.

21 Q. I did. Now I'm asking you who raised the issue
22 first, him or you?

23 A. Me. I did. I made the decision.

24 Q. That's your testimony under oath?

25 A. Yes, that is my testimony under oath that I made



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1 the decision --

2 Q. That's a different question.

3 A. -- to cut the rates.

4 Q. That was a different question.

5 The question is who raised the issue first?

6 MS. WATERS:

7 Asked and answered.

8 THE WITNESS:

9 I told you that it was me. He didn't
10 bring that up.

11 BY MS. BARNEY:

12 Q. Okay. So if he says you did, you would say that
13 he's inaccurate?

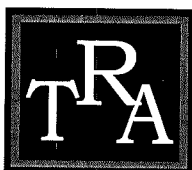
14 A. I -- and he says he -- that I -- only him and I
15 know that conversation, and we cannot say because we are
16 not sitting on February 1st, 2012. So unless we have a
17 video recorder that went verbatim of the question, it's
18 between me, him, that date and that knowledge. That's
19 it.

20 Q. Did you have any further conversations with Mr.
21 Simoneaux that night?

22 A. Just why he didn't call me.

23 Q. This was on the same phone call when you're in
24 the car with Mr. Simoneaux?

25 A. Yes.



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1 Q. Okay. So after you hung up from this phone call,
2 did you have any other conversations with Mr. Simoneaux
3 that night?

4 A. Not to my knowledge, no.

5 Q. By the time you're in your car and you're on the
6 phone with Mr. Simoneaux, had Tom Miller already voiced
7 to you his displeasure with there being an e-mail about
8 this leak?

9 MS. WATERS:

10 Object to form. Assumes facts.

11 THE WITNESS:

12 I can't recall.

13 BY MS. BARNEY:

14 Q. Okay. At some point, you learned that Mr. Miller
15 was unhappy that there was an e-mail written about the
16 leak; is that right?

17 A. No.

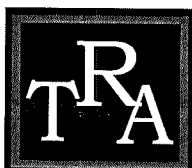
18 Q. So as you sit here today, you don't know whether
19 Mr. Miller voiced objection about there being an e-mail
20 sent about the leak?

21 A. I don't recall.

22 Q. You don't know whether he has or not as of today?

23 A. As of today, I don't recall.

24 Q. Okay. Did you have any conversations with
25 Mr. Miller later than evening?



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1 A. I may have.

2 Q. And do you recall one way or the other whether
3 you did or not?

4 A. I may -- I may have.

5 Q. But you don't remember one way or the other?

6 A. No. I just said I may have, which would imply
7 that if you presented something to me, then clearly I
8 did.

9 Q. Okay. And I'm just going right now as you sit
10 here today.

11 A. As I sit here today, I said that I may have.

12 Q. Okay. And my -- what I'm trying to understand is
13 what you recall, not whether I can show you a document
14 or anything like that. I just want to know whether you
15 recall one way or the other whether you had a
16 conversation with Mr. Miller after he left the
17 restaurant.

18 A. I'm recalling that I may have. I am not sure.

19 Q. Okay.

20 A. Final answer.

21 Q. Did you have any conversations with anyone else
22 that night from the plant besides Mr. Miller?

23 A. Yes.

24 Q. And who was that?

25 A. The people at the business meeting.



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1 Q. Okay. So they were plant people that were at
2 this business meeting; they were Burnside plant people?

3 A. I just remember Tom. There were other people.

4 Q. And you think the -- I got the impression from
5 business meeting that it was outside people that you
6 were sort of marketing to and trying to get business.
7 Is that not what you're describing as a business
8 meeting?

9 MS. WATERS:

10 Assumes facts not in evidence.

11 MS. BARNEY:

12 I know. I'm asking about the facts.

13 THE WITNESS:

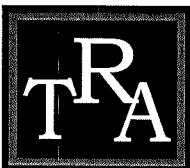
14 Well, business meeting because I'm there
15 with Tom and it is pertaining to work, business.
16 Business meeting.

17 BY MS. BARNEY:

18 Q. So when you say business meeting, you're not
19 meaning a courting of a customer kind of business
20 meeting?

21 A. It's a business meeting. That's how I'm calling
22 it, regardless if it's courting a customer or conducting
23 work -- anything pertaining to work that is a meeting is
24 a business meeting.

25 Q. All right. So some of the people there were



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1 plant people?

2 A. Correct.

3 Q. Now that you're refreshed on that, can you recall
4 which plant people were there besides Tom?

5 A. No.

6 Q. Male? Female?

7 A. No.

8 Q. Any idea how many?

9 A. It was larger than a table that sat four. It was
10 a round table.

11 Q. Okay. Was George Valentine there?

12 A. He might have been.

13 Q. What about Gene Clemons?

14 A. I don't know.

15 Q. What about Don Janezic?

16 A. I don't know.

17 Q. Okay. Which one of those people do you think you
18 spoke with on the phone that night after leaving the
19 restaurant?

20 A. Which one of those people do I think I spoke to
21 the phone with last night, the people that you --

22 Q. That night.

23 A. That night, the people that you just mentioned?

24 Q. A moment ago we were talking about who you talked
25 with that night after the left the restaurant about the



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1 gas leak that's reflected in the e-mail that's Exhibit

2 1 --

3 A. Uh-huh.

4 Q. -- and you indicated that you may have talked to
5 Tom Miller --

6 A. Uh-huh.

7 Q. -- and that you did have conversations with
8 others.

9 A. True.

10 Q. And I'm trying to ask you who -- and when you
11 were saying who those others were, you said they may
12 have been the people at the business meeting.

13 A. Correct.

14 Q. Now I'm asking you who you spoke with that night
15 other than Tom Miller.

16 A. At the business meeting?

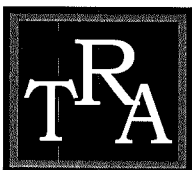
17 Q. After you left the business meeting, on the phone
18 or otherwise.

19 A. I don't recall.

20 Q. Okay. So you may have spoken to George Valentine
21 that night?

22 A. I told you I don't recall, so if I did, I did.
23 If I didn't, I didn't. I don't remember.

24 Q. Do you recall -- do you have any way of knowing
25 how long Tom Miller stayed at the plant when he went by



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1 the plant?

2 A. No.

3 Q. Do you work -- at that point in time, did you
4 work days at DuPont Burnside?

5 A. Yes.

6 Q. You don't work shift work?

7 A. I've never worked shift work.

8 Q. Okay. So what time do you report to work now and
9 I guess at the time this e-mail was sent in February
10 2012?

11 A. It varies.

12 Q. About. I mean, just when do you go to work on a
13 regular basis?

14 A. When I arrived to work, typically, 6:00 to 6:30
15 at that time.

16 Q. Okay. When would you have left the plant before
17 this business meeting; do you know, on February 1st?

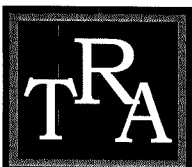
18 A. I don't recall what time I left.

19 Q. What's your average time for leaving on a regular
20 day?

21 A. Maybe 4:00, 4:30, 5:00.

22 Q. Do you know whether you went home before the
23 business meeting or went straight to the business
24 meeting?

25 A. I can't recall.



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1 Q. Let me show you a document that we'll mark as
2 Exhibit 2.

3 (Whereupon a document was marked for
4 identification as Exhibit Number 2.)

5 BY MS. BARNEY:

6 Q. This is an e-mail from you to Tom Miller February
7 2nd at 2:07 a.m., and in that e-mail, you're forwarding
8 Jeff's e-mail that came to you February 1, 7:26 in the
9 evening. You're forwarding that e-mail to Tom Miller at
10 2:07 a.m., February 2nd, which is basically the same
11 night, only past midnight; right?

12 A. Correct.

13 Q. Do you recall why you forwarded that e-mail at
14 2:00 in the morning to Mr. Miller?

15 A. No.

16 Q. You don't recall whether he asked you to do that?

17 A. No.

18 Q. Let me show you a document we'll mark as Exhibit
19 3.

20 (Whereupon a document was marked for
21 identification as Exhibit Number 3.)

22 BY MS. BARNEY:

23 Q. At 2:08 a.m., you forwarded Jeff Simoneaux's
24 e-mail to George Valentine; is that right?

25 A. Uh-huh. That's what it's showing.



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1 Q. Okay. And you don't have any reason to dispute
2 that you're the one who forwarded that e-mail at 2:08
3 a.m.

4 A. It shows that it's coming from my e-mail account.

5 Q. And so the answer is no, you have no reason to
6 dispute it?

7 A. It's coming from my e-mail account.

8 Q. I got that.

9 A. I...

10 MS. WATERS:

11 Document speaks for itself.

12 THE WITNESS:

13 It's coming from my e-mail account, so
14 I'm not going to say yes or no about disputing it
15 because it's showing that it's coming from my e-mail
16 account to George Valentine's e-mail account. I don't
17 know what 2:00 a.m. in the morning. That's precious
18 beauty sleep.

19 BY MS. BARNEY:

20 Q. But you think you sent that e-mail at 2:08 to
21 George Valentine. You don't have any reason to think
22 you didn't; right?

23 MS. WATERS:

24 Asked and answered.

25 THE WITNESS:



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1 Elizabeth M. Cromwell at this DuPont
2 e-mail address sent an e-mail to George M. Valentine at
3 2:08. I don't know. All I do know is what I'm reading
4 right here is that an e-mail from this account got sent
5 to this account.

6 BY MS. BARNEY:

7 Q. Right. And I was able to figure that out, and so
8 my question to you is --

9 A. I'm not disputing that.

10 Q. -- do you have any reason to think that it was
11 not you who sent that e-mail?

12 A. I don't know.

13 Q. You don't know whether you have a reason to
14 believe it?

15 A. I don't know. It's at 2:00 a.m. in the morning.
16 I'm looking at this just as crazy as you are. This is
17 2:00 a.m. That's precious sleep time.

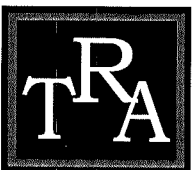
18 Q. So do you have a reason to believe somebody else
19 sent it or not?

20 A. Anything's possible.

21 Q. Are you saying under oath that you did not send
22 that e-mail?

23 A. No. That's not what you asked me.

24 Q. I'm asking you now, are you saying under oath
25 that you did not send that e-mail?



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1 A. I don't recall.

2 Q. But you're not testifying affirmatively that you
3 did not send the e-mail; right?

4 MS. WATERS:

5 Asked and answered.

6 THE WITNESS:

7 I do not recall if I sent the e-mail or
8 not.

9 MS. BARNEY:

10 Okay.

11 THE WITNESS:

12 I'm only recalling what I see in front
13 of me.

14 BY MS. BARNEY:

15 Q. All right. And because you can't recall --

16 A. Uh-huh.

17 Q. -- you can't deny that you sent it; right?

18 MS. WATERS:

19 Asked and answered.

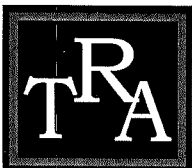
20 THE WITNESS:

21 I can't recall it.

22 BY MS. BARNEY:

23 Q. Right. So you can't deny; right?

24 A. I'm not going to answer that. I can't recall
25 sending the e-mail.



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1 Q. And my question is, because you can't recall it,
2 you can't deny that you sent it because you don't have
3 the information it would take to know for sure; right?

4 A. And because I can't recall it --

5 Q. Right.

6 A. -- I can't deny it either way because I can't
7 recall it. So if I can't recall it, then I can't tell
8 you either way. So I can't recall. I can't recall it.

9 Q. Is there something that would make you think that
10 somebody else used your e-mail at 2:00 in the morning to
11 forward this e-mail from Jeff Simoneaux to George
12 Valentine?

13 MS. WATERS:

14 Asked and answered.

15 THE WITNESS:

16 I don't know.

17 BY MS. BARNEY:

18 Q. I'm sorry?

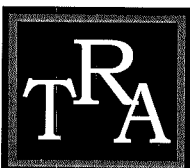
19 A. I don't know.

20 Q. I'm asking you whether or not there was something
21 that would make you believe that somebody would forward
22 this e-mail from Jeff to George Valentine.

23 A. No.

24 MS. WATERS:

25 Same objection.



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1 THE WITNESS:

2 I can't recall.

3 BY MS. BARNEY:

4 Q. Is it your understanding that when Mr. Miller got
5 to the Burnside plant on February 1 that he overrode
6 your decision to cut back the rates at the plant?

7 A. No, it's not my understanding.

8 Q. You're not aware of that?

9 A. I'm not aware of the conversation that took
10 place.

11 Q. Is it your understanding that the rates of the
12 plant were, in fact, not cut back on the evening of
13 February 1st?

14 A. I would guess, based on the DCS information
15 showing the burden.

16 Q. Is that the complete answer? Are you finished?

17 A. Yes.

18 Q. What would you guess based on DCS information?

19 A. That the rates weren't cut.

20 Q. Were not cut?

21 A. I'm -- that's what you were asking me.

22 Q. Okay. So you've seen DCS information regarding
23 the plant's operation on February 1 of 2012?

24 A. Yes.

25 Q. And from that -- let me finish.



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1 From that, you would discern that the rates were
2 not cut back on February 1, 2012; is that right?

3 A. Can you repeat the question.

4 (Whereupon the reporter read back the
5 requested information.)

6 THE WITNESS:

7 Yes.

8 BY MS. BARNEY:

9 Q. Okay. When did you review that DCS information?

10 A. In February.

11 Q. Of 2012?

12 A. Right.

13 Q. Okay. Did you do any follow-up or ask anyone why
14 the rates were not cut like you had instructed on
15 February 1, 2012?

16 A. No.

17 Q. Why is that?

18 A. I just didn't.

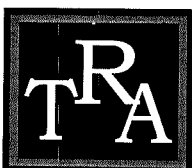
19 Q. Is that not part of your job?

20 A. Well, you're asking me part of my job, but the
21 rates weren't -- were not decreased. I just didn't.

22 Q. You learned at some point that Mr. Miller had
23 advised them not to cut the rates; right?

24 A. I don't recall.

25 Q. So if Mr. Simoneaux had just not cut the rates



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1 back like you told him to, you would have just ignored
2 that and not worried about it and not made a follow-up;
3 is that right?

4 MS. WATERS:

5 Object to form.

6 THE WITNESS:

7 No.

8 BY MS. BARNEY:

9 Q. So something must have happened for you to come
10 to the understanding that the rates weren't cut back and
11 that was okay with you; right?

12 A. I just don't recall.

13 Q. You didn't follow up or blame Mr. Simoneaux for
14 not cutting the rates back on February 1, 2012; right?

15 A. I don't recall.

16 Q. If you blamed Mr. Simoneaux for cutting the rates
17 back on February 1, 20 -- for not cutting the rates back
18 on February 1, 2012, would you have documented that
19 somewhere?

20 A. Yes.

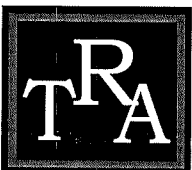
21 Q. Where would you have documented it?

22 A. On a computer.

23 Q. And in what kind of document?

24 A. A Word document.

25 Q. And what would the document be called?



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1 A. I don't know. I don't know what I would name the
2 subject of it.

3 Q. What would you name the title of it?

4 A. That I didn't reprimand him or didn't get mad at
5 him for not doing that. That's a possible title. It
6 would probably be whatever the body was of the first
7 sentence that I started.

8 Q. Did you do anything to follow up on the leak that
9 Mr. Simoneaux advised you about on February 1, 2012?

10 A. I can't recall what I did.

11 Q. Or whether you did anything?

12 MS. WATERS:

13 Asked and answered.

14 THE WITNESS:

15 I can't recall what I did.

16 BY MS. BARNEY:

17 Q. I know. I'm asking whether you recall whether
18 you did anything at all.

19 MS. WATERS:

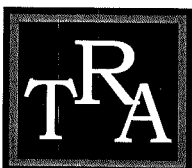
20 Asked and answered.

21 THE WITNESS:

22 That's what I can't recall. I can't
23 recall so I can't recall what I did.

24 BY MS. BARNEY:

25 Q. Okay. Two different questions. I'm just trying



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1 to get an answer, Ms. Cromwell.

2 A. And it's no -- but that's the same answer is I
3 don't recall. So you don't know what I did, and I'm
4 telling you that I can't recall what I did.

5 Q. And the question was whether you did anything.
6 They are two different questions.

7 A. And I said I don't recall that.

8 Q. I can assure you, Ms. Cromwell, that by the way
9 you're handling these questions today, we're not going
10 to conclude by 4:00 today, so we're going to have to
11 find another day to resume, and the record will reflect
12 why.

13 A. That's fine. Just as long as we end at 4:00
14 because I have to pick up my child. You're getting
15 upset.

16 MS. WATERS:

17 Strike that colloquy.

18 BY MS. BARNEY:

19 Q. Do you recall reading the logbook entry from
20 February 1, 2012 in the control room?

21 A. Yes.

22 Q. And when did you read that?

23 A. Possibly the day after, February 2nd.

24 Q. And how do you remember doing that on that day?

25 A. How do I remember? I don't know how I remember.



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1 Q. When you read the logbook from that day, did you
2 take any action after reading the logbook entry?

3 A. I don't recall that.

4 Q. Let me show you a document that we'll mark as
5 Exhibit 4.

6 (Whereupon a document was marked for
7 identification as Exhibit Number 4.)

8 BY MS. BARNEY:

9 Q. I'll ask you to take a look at that.

10 A. Okay.

11 Q. Does that appear to be the February 2012 logbook
12 entry for the DuPont Burnside plant?

13 A. Yes.

14 Q. When is the last time you saw this document?

15 A. The last time would, to my knowledge, have been
16 February 2nd.

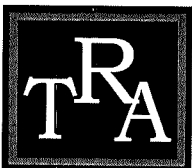
17 Q. Okay. If you read the lower part, second half of
18 the page, is there anything on the second half of the
19 page that you have any dispute about?

20 A. You said second --

21 Q. When I say dispute about, do you dispute the
22 accuracy of anything in this document, the second half
23 of the page?

24 MS. WATERS:

25 Take your time and read it.



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1 THE WITNESS:

2 Can you please repeat the question.

3 BY MS. BARNEY:

4 Q. Okay. Do you have any dispute about the accuracy
5 of anything written there?

6 MS. WATERS:

7 Object to the form.

8 MS. BARNEY:

9 Let me rephrase because there was an
10 objection.

11 BY MS. BARNEY:

12 Q. Is there anything known to you to be untrue about
13 what's written or that you have a basis to believe is
14 untrue?

15 A. Possibly the conversation or this paragraph
16 that's written which seems to be a conversation that
17 happened between Jeff and Tom.

18 Q. Okay. And you weren't present for that
19 conversation; right?

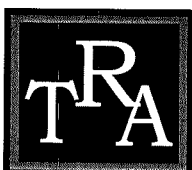
20 A. Correct. It was between Jeff and Tom.

21 Q. Okay. And what basis would you have to dispute
22 what's written there, the accuracy of it?

23 MS. WATERS:

24 Object to form.

25 THE WITNESS:



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1 I guess I would have to know what the --
2 how Tom felt the conversation went on.

3 BY MS. BARNEY:

4 Q. And then --

5 A. Because it seems that -- since it's written by
6 just Jeff, I don't know what Tom's version is, so I
7 guess that's why I would dispute the accuracy of it.

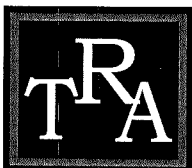
8 Q. You would be more inclined to go with Tom's
9 version?

10 A. No. I just told you that I would want to see
11 Tom's version because it's just -- it's coming from one
12 side.

13 Q. Okay. And my question was whether you would have
14 any basis for disputing the accuracy of it yourself, not
15 what Tom thinks, but do you have any facts inconsistent
16 with this?

17 A. I don't have any facts. You just asked me if I
18 would dispute it or not, and I'm just telling you that
19 based off of the fact that it's just one conversation, I
20 would want to find out from Tom or see something else
21 that was written that would, you know, sort of put two
22 and two together. But when it comes to that, it's --
23 the only two people that know about that conversation
24 are the two people that were there that night.

25 Q. Okay. So as of today, you haven't done that?



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1 You haven't gone and gotten Tom's version; right?

2 A. I can't get Tom's version from today because
3 he -- I mean, if there's no audio on it, then we can't
4 say what happened that day.

5 Q. Okay. So the answer is no, you don't have Tom's
6 version of this; right?

7 A. I don't have something written by Tom.

8 Q. So the answer is no; right?

9 A. Okay. No.

10 Q. Do you recall anything about some Syngenta loads
11 that were out of spec or thought to be out of spec in
12 February 2012?

13 A. I vaguely recall it.

14 Q. What do you recall about it?

15 A. That there were out-of-spec samples -- out of
16 spec loads that were shipped to a customer.

17 Q. Are thought to be or that they definitely were?

18 A. Based on the information that was given to us by
19 the customer.

20 Q. Tell me again what your conclusion was about that
21 issue.

22 A. That they were out of spec shipments.

23 Q. So you don't recall that it was resolved with the
24 understanding that there was a paperwork problem on the
25 Syngenta side?



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1 MS. WATERS:

2 Object to form.

3 THE WITNESS:

4 I don't recall -- I don't recall it
5 being a paperwork issue. I just recall that it was --
6 that it was an out-of-spec shipment.

7 BY MS. BARNEY:

8 Q. You don't recall there being an issue of
9 paperwork for the Syngenta system being input
10 incorrectly into SAP by corporate logistics so that it
11 asked DuPont to ship the wrong product?

12 MS. WATERS:

13 Object to form.

14 THE WITNESS:

15 Not on that particular scenario, no.

16 BY MS. BARNEY:

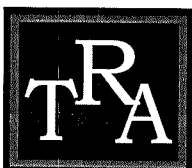
17 Q. What particular scenario?

18 A. The scenario that I'm recalling is that we had
19 out-of-spec shipments sent to Syngenta.

20 Q. That issue was raised by Syngenta; right, as to
21 whether it was out of spec?

22 A. Correct.

23 Q. Okay. And didn't some looking into that take
24 place and it was discovered that paperwork for the
25 Syngenta system had been input incorrectly into the SAP



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1 by corporate logistics?

2 MS. WATERS:

3 Asked and answered.

4 THE WITNESS:

5 I would have to review the information.

6 As far as that coming from there, I don't know that.

7 I'm not recalling that being the conclusion.

8 BY MS. BARNEY:

9 Q. Do you recall how many out-of-spec issues
10 Syngenta raised?

11 A. The one that I'm talking about that I'm recalling
12 is two shipments that we had that came out of our plant
13 that were out of spec.

14 Q. So two is what you're thinking?

15 A. Correct, that I'm recalling.

16 Q. Do you remember Meta advising an individual to
17 load the product that was in the SAP?

18 MS. WATERS:

19 When was this?

20 MS. BARNEY:

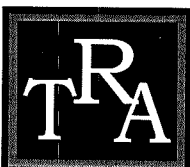
21 February 2012.

22 MS. WATERS:

23 Okay.

24 BY MS. BARNEY:

25 Q. And that the truck driver said that it was the



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1 wrong product, but Meta told them to load it anyway
2 because that was in the computer?

3 MS. WATERS:

4 Object to form. Assumes facts.

5 THE WITNESS:

6 I don't recall that information.

7 Her name is pronounced Meta.

8 BY MS. BARNEY:

9 Q. Okay. Are you aware at Mr. Miller instructed
10 operators, including Mr. Simoneaux, not to put leaks in
11 writing other than if the decision was made to do an
12 initial incident report?

13 A. No, I'm not aware.

14 Q. So it's your understanding that sending leak
15 information by e-mail is okay, putting it in the logbook
16 is okay and any other written form for advising of a gas
17 leak is okay at DuPont Burnside?

18 A. No.

19 Q. Okay. Tell me -- clarify that for me.

20 A. Sending an e-mail to me about a gas leak that you
21 want advice to do, to me, I don't feel is a very robust
22 way to be able to handle the situation.

23 Q. Okay. But it's not in violation of any rules or
24 procedures? Nothing says you can't put the gas leak in
25 writing in e-mail; right?



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1 A. Correct.

2 Q. Okay.

3 A. But then you -- but then a person who sends an
4 e-mail shouldn't -- to me, should not expect that you're
5 going to get an automatic response. Let's say, for me,
6 say, at 1:00 a.m. in the morning, if you send me an
7 e-mail, typically, I'm not up at 1:00 a.m. Typically.

8 Q. All right. Do you recall getting any e-mails
9 from Mr. Simoneaux at 1:00 a.m. in the morning?

10 A. No.

11 Q. Okay. Do you recall getting them at 1:00 a.m.
12 from anybody else?

13 A. No, because typically I'm sleeping. I'm not
14 checking my e-mails 24/7 in my sleep hours.

15 THE WITNESS:

16 Can we take a break?

17 MS. BARNEY:

18 Yes.

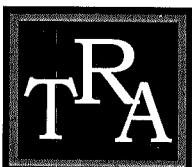
19 (A recess was taken.)

20 BY MS. BARNEY:

21 Q. Ms. Cromwell, do you recall -- in connection with
22 the February 1 leak incident, do you recall there being
23 an initial incident report?

24 A. For the February 1 incident?

25 Q. Right.



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1 A. I don't recall there being a first report.

2 Q. Were some of the documents that you helped gather
3 for Ms. Waters and Ms. Weiner in connection with this
4 litigation, were those the incident reports, also?

5 A. Yes.

6 Q. And as far as you know, did you gather all of the
7 incident reports that your attorneys requested?

8 A. Yes.

9 Q. And is it your understanding that that went from
10 December of 2011 or maybe even earlier than that, but at
11 least December 2011 through current?

12 A. Yes.

13 Q. So if there was an incident report for February 1
14 of 2012, you would have produced it; right?

15 A. Yes.

16 Q. If there is not one, do you know why there is not
17 one?

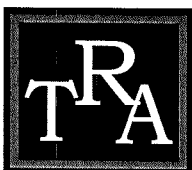
18 A. No, I do not know.

19 Q. You didn't direct anyone to do an incident report
20 for the February 1 incident; right?

21 A. I don't recall that.

22 Q. Okay. And I think you said you don't recall
23 Mr. Miller -- well, let me scratch that because the
24 question may have been a little different.

25 Do you recall at some point in time Mr. Miller



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1 directing people to use an initial incident report?

2 A. Yes.

3 Q. And about what time period do you recall that
4 being?

5 A. That, I don't recall.

6 Q. Okay. Do you think that it may be an explanation
7 as to why there is no February 1, 2012 incident report,
8 the fact that he had not yet made that instruction?

9 MS. WATERS:

10 Object to form.

11 THE WITNESS:

12 No.

13 BY MS. BARNEY:

14 Q. Tell me why you say no to that.

15 A. Because I think there were some that were
16 initiated and then he initiated that process in 2011
17 sometime. I just don't -- I don't recall. The only
18 reason why I'm saying 2011 is because that's when he
19 started at the plant site.

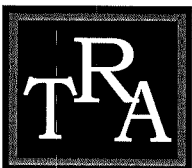
20 Q. Okay. So you don't know why there wasn't an
21 incident report for February 1, 2012?

22 MS. WATERS:

23 Asked and answered.

24 THE WITNESS:

25 No, I don't recall that.



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1 BY MS. BARNEY:

2 Q. And if there was no initial incident report, then
3 there's not going to be an investigational report;
4 right?

5 MS. WATERS:

6 Object. Assumes facts.

7 THE WITNESS:

8 For this one, yes.

9 BY MS. BARNEY:

10 Q. Okay. Well, as a matter of procedure at DuPont
11 Burnside, an investigational report follows an initial
12 incident report; is that right?

13 A. To my knowledge, yes.

14 Q. Okay. You've never seen an investigational
15 report that didn't have an initial incident report in
16 advance of it; right?

17 A. Well, yes, prior to Tom.

18 Q. All right. So once Tom became the plant manager
19 or he started advising people to use the initial
20 incident report, then every time you have an
21 investigational report, you would have first had an
22 initial incident report?

23 A. To my knowledge, yes.

24 Q. Okay. Are you aware that logbooks that are kept
25 in the control room and I guess we'll say other than the



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1 February 1 I've already showed you, but are you aware
2 that logbook reflects gas leaks from the acid plant on
3 various days in the logbook?

4 A. Possibly, yes.

5 Q. Okay. If there are days in the logbook where gas
6 leaks are described with no corresponding initial
7 incident report for that day, can you explain why that
8 would be?

9 A. No, I don't have an explanation.

10 Q. Okay. If Mr. Miller testified that if you have
11 an ongoing leak, then you don't have to necessarily do a
12 new initial incident report every time that same spot is
13 leaking, would you disagree with that?

14 MS. WATERS:

15 Object to the form.

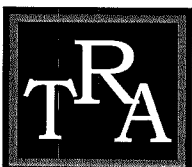
16 THE WITNESS:

17 No, I wouldn't disagree.

18 (A recess was taken.)

19 BY MS. BARNEY:

20 Q. All right. Let me show you a document that I've
21 marked as Exhibit 5, and I don't have a paperclip, but
22 it is a one, two, three, four -- five-page document, and
23 just for the record, the first page has an Exhibit G at
24 the bottom, which corresponds to the complaint in the
25 case. Second page, Exhibit H; third page has Bates



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1 DSF 66; fourth page, DSF 67; last page is Exhibit I from
2 the complaint.

3 (Whereupon a document was marked for
4 identification as Exhibit Number 5.)

5 BY MS. BARNEY:

6 Q. And I'll ask you to take a look at that group of
7 documents for me and we'll start with the first page of
8 that exhibit and that appears to be a nightshift log of
9 some sort?

10 A. Correct.

11 Q. What is that nightshift log, generally? Not this
12 particular entry, but just in general, what is that
13 thing?

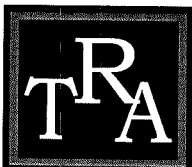
14 A. Some -- it's typically used as part of the shift
15 log to -- sort of like with the red book, you write
16 different information that has gone on through the
17 evening. It's on the Lotus Notes web -- not website.
18 It's on the Lotus Notes database, and if you have access
19 to Lotus Notes, you can be able to check it.

20 Q. Okay. And I seem to have some vague recollection
21 that Lotus Notes came and went.

22 A. Uh-huh.

23 Q. Can you tell me about that. Is it a current
24 system, or is it a former system?

25 A. They shifted Lotus Notes e-mail database to



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1 Microsoft Outlook.

2 Q. Okay.

3 A. They still have the Lotus Notes -- databases for
4 Lotus Notes. I don't know what the status is on having
5 like a Microsoft or some other type of thing. I think
6 they wanted to move away from Lotus Notes.

7 Q. Okay.

8 A. But we're still -- we're still using this
9 database. We're still using Lotus Notes database.

10 Q. Today?

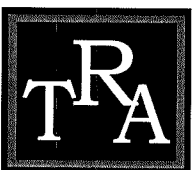
11 A. For the shift logs.

12 Q. All right.

13 A. I wanted to make that correction because if you
14 say Lotus Notes, then you're including the e-mail, the
15 logs, any type of database that's on there. So I
16 actually wanted to specify that's it's the -- I don't
17 know verbatim what it's called. Burnside logs or
18 something to that effect.

19 Q. All right. So these -- the data that's in this
20 shift log, kind of like the one that's on Exhibit 5, is
21 still on the DuPont system and you could print those out
22 for us or download them to a disk?

23 A. It should be. Yes, I still have access to it.
24 It's still active. I have been having an issue with my
25 Lotus Notes. That's why I was saying -- I just gave you



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1 the look like I can't print them, but that's just coming
2 from my computer. And I have conveyed that to Lori that
3 I have had issues for over a year when I try to print
4 out something from Lotus Notes, it tells me something
5 went wrong and then it just shuts my whole Lotus Notes
6 down so I can't print anything off it.

7 Q. Okay. So you haven't -- in producing documents
8 in this case, you haven't produced anything from the
9 Lotus Notes like this shift log on Exhibit 5?

10 A. Right. Correct, from -- that I have printed off
11 of my computer.

12 Q. Okay. Have you produced it from any other source
13 than printing it from your computer?

14 A. No, I can't print it from my computer. Like, I
15 can't even -- if you forwarded me the little icon and I
16 try to open it up and I try to print it, it won't --
17 like I cannot print anything that is Lotus Notes based
18 from my computer. And I can't even forward it to be
19 able to print it.

20 Q. All right. Could the data be downloaded to a
21 disk --

22 A. I mean, like forward it to myself from like my
23 e-mail.

24 Could it be downloaded? I'm not sure. That, I
25 don't know.



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1 Q. Could you check with anybody to see if anybody
2 else from Burnside could print it?

3 A. Yes. Other people at Burnside can print it.

4 Q. Okay. So you could get somebody else to print
5 those for us and produce them?

6 A. Yes.

7 Q. Okay.

8 MS. BARNEY:

9 I guess we'll add that to our request
10 list.

11 MS. WATERS:

12 We'll see what we can do.

13 BY MS. BARNEY:

14 Q. We're talking about the Lotus Notes shift logs;
15 is that what it would be called?

16 A. I think so, yes.

17 Q. And then did it become at some point Microsoft
18 shift logs, or is it still Lotus Notes shift log?

19 A. It's still in Lotus Notes database.

20 Q. It's just an e-mail exchange?

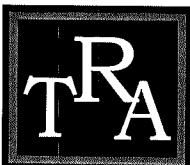
21 A. Correct.

22 MS. WATERS:

23 Can you give me a time period?

24 MS. BARNEY:

25 You can do December 1, 2011 through



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1 present.

2 BY MS. BARNEY:

3 Q. Okay. Ms. Cromwell, if you'll look at the first
4 page of this exhibit, this is the shift log that talks
5 about an SO3 leak found above the CIP. Have you ever
6 seen this before?

7 A. Yes, I probably have seen it before.

8 Q. Okay. Do you recall doing anything after seeing
9 it, in particular?

10 A. I think I may have seen it after -- after the
11 date of all this happening.

12 Q. Okay.

13 A. As far as 3/18.

14 Q. So when you say after the date, how far after
15 3/18?

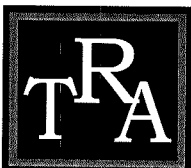
16 A. That, I can't recall.

17 Q. Like a year or just a few days?

18 A. I can't recall.

19 Q. Okay. Did you conclude at any point that there
20 was any inaccurate information in that shift log entry?

21 A. I think the only thing is that the amount of time
22 in between, when it says that, "Management, Elizabeth,
23 notified, left message, no answer," that timing that
24 was -- that was in between, as far as getting back, that
25 was a short timeframe. And to me, I don't -- I feel



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1 that it's slated in the sense that it just interprets
2 the fact that I just didn't call until hours later, and
3 that wasn't the case.

4 Q. Okay. How long do you think it was? I know a
5 time period is given here, but how long do you think it
6 was between the call to you and your return call?

7 A. I would say no more than 20 minutes.

8 Q. Okay. All right. If you look at the second page
9 of that exhibit, that's a handwritten incident report
10 that appears to have been prepared by Jeff Simoneaux; is
11 that right?

12 A. Yes.

13 Q. And it says, "Incident date: 3/18/2012; Date
14 reported: 3/19," and under "Brief description of known
15 facts," it says, "SO3 leak crossing fence line toward
16 Ormet and making nightly security preliminary inspection
17 as per Homeland Security regs. Noticed that leak was
18 getting off site. Truck would not move, stuck in mud."

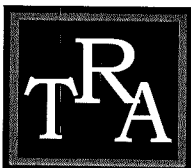
19 Did you ever see this handwritten incident
20 report?

21 A. Yes.

22 Q. Okay. Do you recall what you did with it after
23 you got it?

24 A. No.

25 Q. Is it your understanding, based on supervising



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1 these folks, that the operators know how to identify an
2 SO3 gas leak when they see one?

3 A. Yes.

4 Q. So you did not confront Mr. Simoneaux about this
5 and tell him that it really wasn't SO3 he saw, did you?

6 A. Not that I recall.

7 Q. Okay. Do you remember one of these night calls
8 where Kerry Long was involved in the communication
9 process?

10 A. Yes.

11 Q. Okay. Because this one, Exhibit H, which is Page
12 2 of Exhibit 5 of your deposition, refers to Kerry Long
13 being contacted, and I think the first page referred to
14 Kerry Long, also.

15 A. Correct.

16 Q. Okay. So you have kind of a memory of one of
17 these nighttime calls involving Kerry Long?

18 A. Correct.

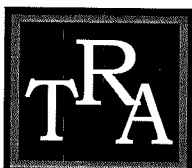
19 Q. If you look at the fourth document in this group,
20 which is Exhibit 5 and it's Bates page 67 at the bottom,
21 I think it's the fourth page in your stack. Keep going.

22 A. 67?

23 Q. Yes, 67, at the bottom.

24 A. Okay.

25 Q. This appears to be an initial incident report



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1 prepared by you for an incident date of 3/18/2012; date
2 reported, 3/19/2012, and under the "Description of
3 facts," it says, "The gas leak on the CIP exchanger was
4 noticed by the outside operator. Immediate action
5 taken: Contacted supervision and environmental
6 coordinator. Environmental coordinator responded first,
7 advised to contact Mark if gas leak was going off site."
8 And then it has, "Report completed by: Elizabeth
9 Cromwell."

10 A. Uh-huh.

11 Q. Do you recall preparing this typed report that's
12 Bates number 67?

13 A. Yes.

14 Q. Okay. What caused you to prepare the typed
15 version? Is that sort of what we were talking about
16 earlier where sometime you created a typed version after
17 you got a written version?

18 A. No.

19 Q. What prompted you to create the typed version in
20 this case?

21 A. I didn't receive any written versions. I didn't
22 receive anything, so I initiated the first report.

23 Q. Okay. You didn't know that there was a
24 handwritten version -- well, let me back up.

25 A second ago you said you saw the handwritten



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1 version.

2 A. Correct.

3 Q. But you didn't see it before you created number
4 67?

5 A. Correct.

6 Q. Okay. Do you know why your report doesn't say
7 anything about the leak going off site?

8 A. No, I don't recall that.

9 Q. Okay. Do you know where you got the information
10 that the chemical released was gas mixture SO2/SO3?

11 A. Because of where it's coming off, it just wasn't
12 solely SO3. It would be a mixture of SO2 and SO3.

13 Q. Okay. Did you base your incident report that's
14 67 off of the phone conversation with Jeff that you had?

15 A. Yes.

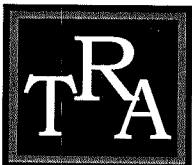
16 Q. Okay. So did you actually start preparing that
17 incident report at home or did you do it when you got
18 into the office the next morning or what?

19 A. When I got to the office the next morning.

20 Q. Okay. And other than the information from Jeff
21 on the phone from the night of March 18-19, did you talk
22 to anybody else before you prepared the incident report
23 that's Bates page 67?

24 A. I had spoken to Tom.

25 Q. Okay. Anybody else?



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1 A. Not that I recall.

2 Q. Do you recall what Tom told you?

3 A. No.

4 Q. Do you recall what you told him?

5 A. No.

6 Q. I guess anything that Tom informed you about or
7 told you to do would have been reflected in the report
8 that you prepared as Bates 67?

9 A. Possibly.

10 Q. Okay. If you look at Bates page 66, which I
11 think might be the third page in your Exhibit 5, this
12 appears to be an initial incident report prepared by
13 Gene Clemons for the same date 3/18/2012, gas leak at
14 the CIP.

15 A. Okay.

16 Q. Have you ever seen this incident report before?

17 A. I probably have.

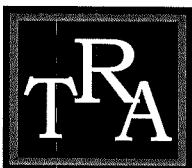
18 Q. Do you know where Mr. Clemons got this
19 information to prepare this report?

20 A. No, I do not.

21 Q. He didn't get anything from you for that report?

22 A. Not that I recall.

23 Q. On the report you prepared, which is Bates number
24 67, it says, "Environmental coordinator responded
25 first" --



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1 A. You said 67?

2 Q. Yes.

3 It says, "Environmental coordinator responded
4 first, advised to contact Mark if gas leak was going off
5 site."

6 Are you saying there that the environmental
7 coordinator advised to contact Mark if the gas was going
8 off site or that you advised to contact Mark if gas was
9 going off site?

10 A. I can't recall.

11 Q. Okay. Would that have been consistent with what
12 you would have advised is to call KBR if it was going
13 off site?

14 A. No.

15 Q. How is that not consistent?

16 A. Because if it's going off site, then I wouldn't
17 contact Mark.

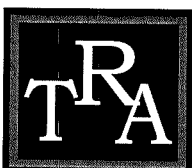
18 Q. Okay. What would you do?

19 A. As simultaneously as I could, contact Tom, T.J.
20 and let the control room know to start taking action of
21 cutting feeds.

22 Q. Okay. Like cutting back rates?

23 A. Reducing the burden.

24 Q. And just for the record, is that included in the
25 phrase "cutting back rates"?



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1 A. Yes.

2 Q. Okay. When you talked to Jeff on March 18th,
3 2012, did you tell him to cut back the rates?

4 A. I possibly told him to cut rates. I can't recall
5 the exact conversation.

6 Q. So you're just not sure?

7 A. I can't recall the exact conversation, but...

8 Q. Was he at that point taking his direction from
9 Kerry Long maybe and you were just getting updated, or
10 do you recall actually being involved in managing this?

11 A. I was involved in managing it.

12 Q. Okay.

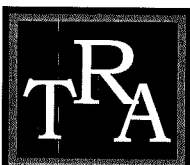
13 A. That's why I looked at this. It says,
14 "Elizabeth" -- and I'm reading the Exhibit G, "Elizabeth
15 called back and we updated her."

16 Q. Okay.

17 A. Everything was going on simultaneously, so this
18 leads you to believe that there was no involvement on
19 working on the situation at hand, and that, I don't
20 believe is true.

21 Q. Okay. Well, your report doesn't say anything
22 about cutting back the rates, so would what you
23 documented be the best reflection of what happened that
24 night in terms of your involvement?

25 A. No.



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1 Q. And why is that?

2 A. Because I can't recall of why I just wrote the
3 scenario on this document that has my name on it.

4 Q. The advice to contact Mark?

5 A. Correct.

6 Q. So you're thinking you would not have given that
7 advice, but maybe the environmental coordinator gave
8 that advice?

9 A. I just don't recall the conversation. I don't
10 recall the details that went into my thought process
11 when I was preparing the document. I don't recall it.

12 Q. Okay. You don't have any information that would
13 tell you that you told Jeff Simoneaux to cut the rates
14 that night and that he didn't; right?

15 A. No.

16 Q. Is whether or not a leak is traveling off site
17 one of the factors that would be considered in deciding
18 whether to cut rates?

19 A. No.

20 Q. Why is that?

21 A. Because it's not a factor.

22 Q. Why would it not be a factor? It seems like
23 there's a lot of documents that talk about off site in
24 various -- well, I'll stick with the documents.

25 MS. WATERS:



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1 Object to form. Assumes fact.

2 BY MS. BARNEY:

3 Q. So why is that not a factor in your decision?

4 A. I don't know. It's just not a factor in my
5 decision. I'm looking -- my decision about the leak and
6 cutting back rates for a leak, if that's the mitigation
7 we're using, I -- I don't know why.

8 Q. So you've never seen any documents at DuPont that
9 kind of refer to -- well, let me scratch that.

10 Have you seen documents at DuPont that refer to
11 whether or not a leak has gone off site or not in
12 assessing an incident?

13 A. Not that I recall.

14 Q. Do you remember any conversations with Tom Miller
15 and George Valentine -- and/or George Valentine after
16 the February 1 incident in follow up to your sending the
17 e-mails to them, the e-mail from Jeff?

18 MS. WATERS:

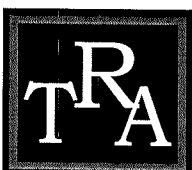
19 Asked and answered.

20 THE WITNESS:

21 I don't recall.

22 BY MS. BARNEY:

23 Q. At some point, you learned that Jeff felt like he
24 was being retaliated against by management at DuPont
25 Burnside because he was putting leaks in writing; is



1 that right?

2 MS. WATERS:

3 Object to form.

4 THE WITNESS:

5 Can you restate that question again.

6 BY MS. BARNEY:

7 Q. At some point, you learned that Jeff Simoneaux
8 felt like he was being retaliated against or harassed
9 for putting leaks in writing at DuPont Burnside; is that
10 right?

11 A. No.

12 Q. So you've never learned that?

13 A. Correct.

14 Q. So no one in HR for DuPont has ever talked to you
15 about that?

16 MS. WATERS:

17 Object to form.

18 THE WITNESS:

19 I do not recall.

20 BY MS. BARNEY:

21 Q. Okay. Do you recall ever taking any steps in the
22 disciplinary process with regard to Jeff Simoneaux?

23 A. Yes.

24 Q. What do you remember the first thing you ever did
25 in that regard?



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1 A. I did some verbal contacts.

2 Q. Okay. And what was that?

3 A. I don't recall the details.

4 Q. Do you remember what the verbal contact was
5 about?

6 A. One of them pertained to the out-of-spec
7 shipments.

8 Q. The Syngenta issue we talked about earlier?

9 A. Correct.

10 Q. All right. Anything else?

11 A. I can't recall the other ones or the other one.

12 Q. Was there any initial incident report or
13 investigational report done for the Syngenta out-of-spec
14 issue?

15 A. Not that I can recall.

16 Q. Did you take the same disciplinary action with
17 regard to the other employee involved in that second
18 out-of-spec Syngenta issue as you did with Jeff
19 Simoneaux?

20 MS. WATERS:

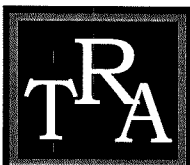
21 Object. Assumes facts.

22 THE WITNESS:

23 Yes.

24 BY MS. BARNEY:

25 Q. And who was that? Who was that other employee?



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1 A. Another operator, Cleve.

2 Q. Melancon?

3 A. Correct.

4 Q. And you don't recall that issue, perhaps in the
5 context of Cleve Melancon's shipment, being resolved
6 with a paperwork or error on the part of Syngenta?

7 A. I do not know the particulars of Cleve's
8 situation -- of the scenario with Cleve. I don't recall
9 those particulars.

10 Q. Okay. And you don't recall whether or not there
11 was an error on Meta Smith's part in entering the data
12 for Syngenta's shipment; right?

13 A. I don't recall any of those particulars.

14 Q. Okay. Do you recall there being anything
15 different about the Syngenta issue as it related to Jeff
16 Simoneaux and the Syngenta issue as it related to Cleve
17 Melancon?

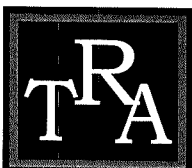
18 A. I cannot recall that right now.

19 Q. Do you ever recall there being any difference?

20 A. Possibly, but I don't recall the particulars
21 about it.

22 Q. When you talked to Jeff about the Syngenta issue,
23 was it a formal meeting in your office, or was it sort
24 of in passing?

25 A. I don't know where it took place. I don't recall



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1 where it took place.

2 Q. Do you recall what you said?

3 A. I do not recall the exact conversation that I had
4 with Jeff.

5 Q. Do you know whether or not you made any
6 documentation of that conversation at the time you had
7 it?

8 A. I may have. I don't recall if I did.

9 Q. If it was considered a formal disciplinary action
10 at the time you had the conversation, would you normally
11 document it in close time period to having the
12 conversation?

13 A. Yes.

14 Q. Let me show you a document that we'll mark as
15 Exhibit 6, Bates labeled 647 to 648 DSF.

16 (Whereupon a document was marked for
17 identification as Exhibit Number 6.)

18 BY MS. BARNEY:

19 Q. Do you recall seeing this e-mail, which appears
20 to be an e-mail from Meta Smith to a group of people
21 dated February 24, 2012?

22 A. I'm pretty sure I might have reviewed it. It
23 doesn't stick out in my mind.

24 Q. Okay. You were aware that a position for
25 administrative specialist or logistics administrator



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1 opened up in February 2012?

2 A. Yes.

3 Q. And that was Gwen Bean's position?

4 A. Yes.

5 Q. You were involved to some extent in the filling
6 of that position; right?

7 A. No.

8 Q. So you didn't have any knowledge as to who the
9 candidates were for that position and what their
10 qualifications were?

11 A. The only thing that I knew of was the people in
12 my group that wanted to -- I'm trying to think of the
13 word to use -- that were interested in the
14 administrative position.

15 Q. Okay. Who were those people?

16 A. Jeff, Kent and Donna.

17 Q. And what was Donna's last name?

18 A. I can't remember.

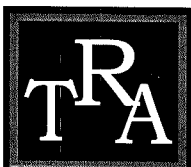
19 Q. Is she still employed at DuPont?

20 A. Oh, Lowery. I just saw it on the posting
21 document.

22 Q. On the e-mail? Okay.

23 A. On the e-mail.

24 Q. Is it your understanding that those folks were
25 the only ones who expressed interest in the position?



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1 A. From my group. I don't know if anybody else
2 expressed interest.

3 Q. You had conversations with Tom Miller about the
4 fact that Jeff wanted that position; right?

5 MS. WATERS:

6 Object to form. Assumes facts.

7 THE WITNESS:

8 I don't recall that conversation.

9 BY MS. BARNEY:

10 Q. You're just not sure what was said?

11 A. No. I just don't recall the conversation.

12 Q. And I guess -- did you have conversations with
13 Meta Smith about Jeff Simoneaux filling that position?

14 A. I don't recall having a conversation with her
15 about that.

16 Q. So it's your testimony today that you never
17 talked to Tom Miller and Meta Smith about that issue?

18 MS. WATERS:

19 Object to form.

20 THE WITNESS:

21 I'm just trying to understand, when
22 you're talking about that issue...

23 BY MS. BARNEY:

24 Q. Jeff wanting that job.

25 A. No, I don't recall having a conversation of just



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1 Jeff wanting that job from -- based on the three people
2 that I had mentioned, I had probably had a conversation
3 just about them saying that they had interest in those
4 roles.

5 Q. At some point in time, you came to understand
6 that Tom Miller and Meta Smith did not want Jeff in that
7 position; right?

8 MS. WATERS:

9 Object to form. Assumes facts.

10 THE WITNESS:

11 No.

12 BY MS. BARNEY:

13 Q. You never got that impression?

14 A. No.

15 Q. You were Jeff Simoneaux's supervisor at the time
16 he posted for the February 24th job -- February 24, 2012
17 job?

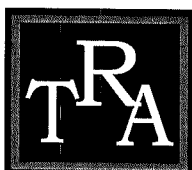
18 A. Correct. You were like, let me finish that
19 before she --

20 Yes, correct.

21 Q. Okay. So Tom Miller or Meta Smith did not have a
22 conversation with you about whether Jeff might be
23 qualified for that administrative position; right?

24 A. To my knowledge, yes, correct.

25 Q. Did you send any written correspondence or



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1 e-mails to Tom Miller or Meta Smith to tell them that
2 you did not think Jeff was qualified for that job?

3 A. Not to my knowledge.

4 Q. Did you have an opinion at that time one way or
5 the other about whether Jeff was qualified for that job?

6 A. No.

7 Q. Do you recall there being discussions in 2012
8 about shutdowns to try to fix the leaking equipment, the
9 CIP, the HIP, the converter?

10 A. Can you repeat that question again.

11 Q. Do you recall there being discussions about
12 shutdowns to try to fix the leaking equipment, say, in
13 2012?

14 A. Yes.

15 Q. All right. Do you recall that on occasion there
16 was a shutdown scheduled, but then it would get delayed
17 for some reason?

18 A. Possibly, yes.

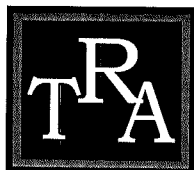
19 Q. Okay. It's true that there were not any cold
20 shutdowns between December 2011 and the recent shutdown
21 September 27, 2013; is that right?

22 MS. WATERS:

23 Object to form.

24 THE WITNESS:

25 No.



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1 BY MS. BARNEY:

2 Q. There were not any cold shutdowns in that time
3 period?

4 A. Yes. Yes, there were.

5 Q. Okay. When do you think there was a cold
6 shutdown between December 2011 and September 2013?

7 A. Okay. I'm sorry. No. I'm sorry. I misheard
8 you. I thought you said October and you got into
9 September.

10 Q. Okay. So there were no cold shutdowns between
11 December 2011 and September 27, 2013?

12 A. Not that I can -- not that I can recall.

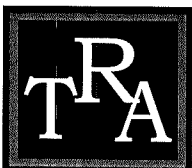
13 Q. Okay. You were the one who communicated to the
14 candidates for the administrative job that they would
15 have to go to a conference room for testing; is that
16 right?

17 A. Go to a conference room for testing for the
18 administrative position?

19 Q. Yes.

20 A. I don't recall that conversation. I don't recall
21 that e-mail.

22 Q. Do you remember communications between you and
23 Meta Smith about testing that was going to be given to
24 the operators who wanted the administrative specialist
25 job?



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1 A. I may have. I just don't remember what -- the
2 dialogue for -- if there was dialogue. I don't
3 remember.

4 Q. Do you know of any lateral movements from one
5 position to another at DuPont Burnside where the person
6 moving to the new position had to take a test to make
7 the move?

8 A. The admin role.

9 Q. Any other one?

10 A. Not that I can recall.

11 Q. Do you remember being involved in communications
12 with Greta Pfalzgraf with regard to Jeff Simoneaux in
13 2012?

14 A. With regard to?

15 Q. With regard to Jeff Simoneaux.

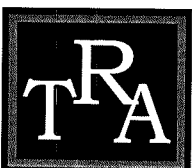
16 A. Possibly.

17 Q. Do you remember what prompted those
18 communications?

19 A. No, but I'm beginning to remember now 2012.
20 Forgive me on that one.

21 It would have been possibly regarding the note to
22 file or something that might have been called that.

23 Q. Okay. And do you recall what prompted you or
24 others at DuPont Burnside to contact Greta Pfalzgraf
25 about a note to file?



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1 A. Due to the information that was listed in the
2 note to file.

3 Q. All right. So the note to file, I think is dated
4 May 1 or May 5, something like that, of 2012.

5 A. Uh-huh.

6 Q. If you were talking and communicating with Greta
7 Pfalzgraf in April, say by April '12, do you know what
8 would have prompted Greta to be involved at that point?

9 A. Well, Greta being the HR manager is -- we're
10 continually in communication because she's the HR
11 manager. Aside from handling just general personnel
12 issues that may be on the disciplinary action side,
13 we're in constant communication based off of if somebody
14 went out on extended leave, we would be in communication
15 about that.

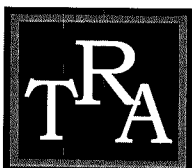
16 Q. All right. Do you recall Jeff sending an e-mail
17 after he did not get the administrative specialist
18 position and voicing concern about that?

19 A. He may have. I just don't remember.

20 Q. So you don't know whether that's what prompted
21 discussions with Greta Pfalzgraf or not?

22 A. I can't recall that. I don't think so because
23 I've had multiple conversations with Greta, not just
24 pertaining to Jeff.

25 Q. Well, with regard to Jeff, you don't know one way



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1 or the other whether the e-mail that Jeff sent voicing
2 his concerns about not getting the administrative
3 specialist job was the event that started conversations
4 between Burnside plant people and Greta about Jeff
5 Simoneaux in 2012?

6 A. I would have to say no.

7 Q. You don't know?

8 A. I would have to say no.

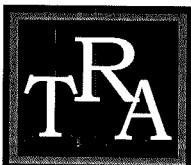
9 Q. Okay. Why would you have to say no?

10 A. Because if he was voicing his concerns and then
11 anything -- when you had mentioned or I had mentioned
12 about a note to file, those two conversations or those
13 two situations were separate, so that's why I would have
14 to say no.

15 Q. Why do you think those two situations were
16 separate?

17 A. Because based on the information that is listed
18 in his note to file and him voicing concerns to Greta,
19 that's him voicing concerns to Greta.

20 Q. Okay. I guess the e-mail I was referring to was
21 not an e-mail from Jeff to Greta. It was an e-mail to
22 Tom Miller, which I believe was forwarded to you, where
23 Jeff was complaining that -- about not getting -- he was
24 complaining to plant personnel about not getting the
25 administrative specialist job. So in other words, you



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1 -- the management at Burnside. Okay?

2 A. So he e-mailed it to me?

3 Q. E-mailed it to Tom, I believe, and then Tom
4 forwarded it to you, I believe.

5 So the question was, do you recall that being the
6 event that prompted the Burnside plant folks to start
7 talking to Greta Pfalzgraf about Jeff?

8 A. No.

9 Q. What do you think prompted Burnside plant
10 management to start talking to Greta about Jeff in 2012?

11 A. Based off of the information that is in the note
12 to file prompted those prior conversations.

13 Q. Do you recall anything that was discussed at the
14 meeting where you went over the note to file with Jeff
15 Simoneaux?

16 MS. WATERS:

17 Object to form. Which meeting, the
18 date?

19 MS. BARNEY:

20 The meeting where they went over the
21 note to file with Jeff Simoneaux, where it was basically
22 presented.

23 THE WITNESS:

24 Do I remember the conversation?

25 MS. BARNEY:



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1 Yes.

2 THE WITNESS:

3 The conversation was reviewing the
4 information in the note to file.

5 BY MS. BARNEY:

6 Q. Do you remember anything specifically that you
7 said to Jeff during that meeting?

8 A. Just the information that was in the note to
9 file.

10 Q. And if it's not in this document, you don't
11 remember saying it; is that right?

12 A. I don't recall. I just stuck to the information
13 that was in the note to file.

14 Q. So you don't remember whether -- is it your
15 testimony that you did not tell Jeff that you were just
16 doing what you had to do in your job?

17 MS. WATERS:

18 Object to form. Assumes facts.

19 THE WITNESS:

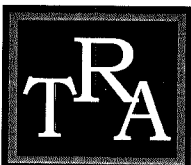
20 No. I don't recall saying that.

21 BY MS. BARNEY:

22 Q. Do you recall Jeff asking you if you agreed with
23 the note to file?

24 A. I can't remember if he did.

25 Q. Did you come up with the idea for the note to



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1 file process with regard to Jeff Simoneaux in 2012?

2 A. Could you elaborate in -- to clarify what you
3 mean by "come up with".

4 Q. Was it your idea?

5 A. To present the note to file?

6 Q. Right. To have the note to file created and then
7 presented to Mr. Simoneaux.

8 A. Yes.

9 Q. All right. And why was that?

10 A. Based on the information that was within the note
11 to file.

12 Q. Was Tom Miller involved in that idea as well?

13 A. He was in support of it.

14 Q. Do you recall Tom Miller asking HR about whether
15 an e-mail from Jeff could be considered a threat?

16 A. No, I don't recall him saying that to me.

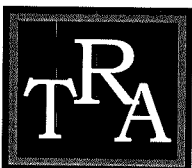
17 Q. And you don't recall e-mails about that issue?

18 A. And, Jane, just for clarification, e-mails
19 between me and Tom about something threatening from
20 Jeff?

21 Q. About whether or not an e-mail from Jeff could be
22 considered a threat.

23 A. Not that I recall.

24 Q. You never thought that anything Jeff said or
25 wrote was a threat, did you?



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1 MS. WATERS:

2 Object to form.

3 THE WITNESS:

4 If anything he ever wrote was a threat?

5 And, Jane, just to clarify, threat as far as me,
6 personally, or my livelihood?

7 MS. BARNEY:

8 Any kind of threat.

9 MS. WATERS:

10 Same objection.

11 THE WITNESS:

12 Possibly.

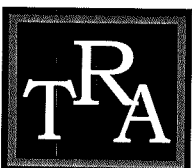
13 BY MS. BARNEY:

14 Q. What do you think -- can you recall anything that
15 you think was a threat, as you sit here today?

16 A. To me, personally, just based on -- that's why I
17 asked just for clarification on physically or my
18 livelihood. The fact that when -- if he were to write
19 any information that was maybe false against me, then,
20 yes, then that is threatening against my livelihood, but
21 that's just me, personally, from that aspect.

22 Q. Can you, as you sit here, think of any kind of
23 threat to anything that Jeff made in connection -- that
24 you're aware of that you thought of as a threat?

25 A. I can't recall at this time.



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1 Q. Other than the Syngenta discussion that you
2 mentioned earlier, did you have any conversations with
3 Jeff about any disciplinary action between that time and
4 the meeting on the note to file?

5 A. I may have. I just don't recall the particulars.

6 Q. Do you recall whether or not you, in fact, had
7 such a conversation?

8 A. I may have, and if I -- and if I did, that would
9 be listed on the note to file.

10 Q. Did you have a formal note to file with regard to
11 Jeff and the March 18th, 2012 leak that we discussed
12 earlier, which is I think some documents pertaining to
13 that are marked as Exhibit 5?

14 A. No.

15 Q. No?

16 A. No.

17 Q. Okay. You recall when the note to file was
18 presented to Jeff in May of 2012, that it referred to
19 the March 18th, 2012 leak incident?

20 A. Without looking at the document, I can't recall
21 what's on it.

22 Q. Do you recall Jeff refusing to sign the May 2012
23 note to file?

24 A. Yes, but he wasn't obligated to sign it.

25 Q. So when you had that May 2012 conversation about



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1 the note to file, that was the first time that you had
2 spoken with Jeff about any disciplinary action in
3 connection with a March 18, 2012 leak incident; is that
4 right?

5 MS. WATERS:

6 Object to form.

7 THE WITNESS:

8 I can't recall that. I don't know --
9 without seeing the information on the note to file, I
10 can't definitively say yes or no in regard to that.

11 BY MS. BARNEY:

12 Q. There were a lot of drafts of the May 2012 note
13 to file for Jeff Simoneaux; right?

14 THE WITNESS:

15 Can we, like, take a break real quick?

16 (A recess was taken.)

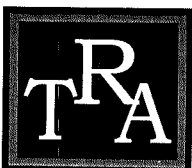
17 BY MS. BARNEY:

18 Q. Mr. Cromwell, do you recall there being a lot of
19 drafts of the note to file that was eventually presented
20 to Jeff Simoneaux in May of 2012?

21 A. Yes.

22 Q. How many people have you recommended be
23 terminated since you've been the operations supervisor
24 at DuPont?

25 A. Two.



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1 Q. Who were they?

2 A. Nathaniel Rapp and Chris Keys.

3 Q. Chris Keys worked for DuPont or KBR?

4 A. DuPont.

5 Q. And that's your brother-in-law?

6 A. No.

7 Q. What's the relation?

8 A. Some relation on my husband's side.

9 Q. You don't know how that man was related to your
10 husband?

11 A. I'm assuming he is related. I didn't -- I never
12 asked them the direct lineage of it.

13 Q. So you don't know even the indirect lineage?

14 MS. WATERS:

15 Asked and answered.

16 BY MS. BARNEY:

17 Q. You don't know how he's related to your husband?

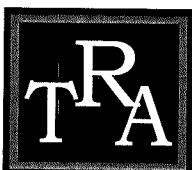
18 MS. WATERS:

19 Asked and answered.

20 THE WITNESS:

21 I said I know he's related to my husband,
22 but I do not know how because I never went out of my way
23 to ask.

24 And I do want to clarify that my last name
25 is spelled K-E-Y-E-S, and his name is spelled K-E-Y-S.



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1 BY MS. BARNEY:

2 Q. Okay. But you think that there's a relation?

3 A. No. I told you I know there's a relation. I'm
4 not trying to be, you know, like all intense about it.
5 I'm just stating that there is a relation. I don't know
6 the exact line of -- I know he's not a brother-in-law.
7 I know that, but I don't know where on the family line
8 he sits as far as cousins.

9 And I get a little persnickety about my last name
10 because everybody can't seem to say it right or spell it
11 right, so it's not you. It's like K-E-Y-E-S.

12 Q. Okay. Do you know why Greta Pfalzgraf would have
13 needed clarification from you and Tom Miller on whether
14 she was preparing a rough draft of a termination for
15 Jeff Simoneaux?

16 A. No, I don't know why. No, I do not know why.

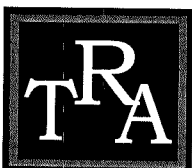
17 Q. Do you recall conversations with Greta Pfalzgraf
18 about possibly terminating Jeff Simoneaux?

19 A. No.

20 Q. Do you recall talking to Tom Miller about that
21 possibility?

22 A. No.

23 Q. The note to file that ended up being presented to
24 Mr. Simoneaux had a one-year probation in it for him; is
25 that right?



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1 A. I'd have to see it to know what was --

2 Q. You don't remember?

3 A. I don't know the information that was on the
4 document, so I don't want to, you know, tell you
5 incorrect information.

6 Q. How many people were you supervising at that
7 point, about?

8 MS. WATERS:

9 At which point?

10 THE WITNESS:

11 Over --

12 MS. WATERS:

13 I'm sorry. At what point?

14 MS. BARNEY:

15 May 2012.

16 THE WITNESS:

17 Over 12.

18 BY MS. BARNEY:

19 Q. Okay. And how many formal notes to file where
20 you put someone on a one-year probation have you been
21 involved in since you've been at DuPont Burnside?

22 A. I can't recall that. I know that there's people
23 that have been on different disciplinary actions, but I
24 don't recall the particulars of the different cases.

25 Q. You don't know whether you've been involved in a



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1 note to file that put someone on a one-year probation or
2 not, other than Mr. Simoneaux?

3 A. I have been involved with notes to file, but I do
4 not know the duration of the probationary period.

5 Q. All right. As you sit here right now, can you
6 think of anything or the most significant thing in your
7 mind that Mr. Simoneaux did to justify a one-year
8 probation in May of -- when he got that in May of 2012?

9 A. I don't recall placing him on probation, just
10 giving him a note to file. But that's just what I'm
11 recalling. I can't recall -- I mean, if you show me on
12 the note to file of the probationary period, but I just
13 can't seem to recall -- I am recalling right now of a
14 note to file, but I don't know the information that's on
15 it.

16 Q. If the note to file that was presented to Jeff in
17 early May of 2012 placed him on a one-year probation,
18 can you think of anything that was -- that he had done
19 that would justify that disciplinary action, as you sit
20 here today?

21 A. If he was placed on probation, it would be due to
22 the information that's listed in that document.

23 Q. Right. I just want to know, as you sit here
24 today, can you recall anything significant enough that
25 would have called for him to be put on a one-year



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1 probation?

2 MS. WATERS:

3 Asked and answered.

4 THE WITNESS:

5 They're all significant enough because
6 he was placed on probation, so the information within
7 the document would support why he was placed on that.

8 BY MS. BARNEY:

9 Q. I understand that you're telling me to go read
10 the document, and what I'm asking you --

11 A. Well, I would like to read the document. I'm not
12 -- I mean, I would just...

13 Q. What I'm asking you, since you were his
14 supervisor that was involved, I take it, in issuing the
15 note to file --

16 A. Uh-huh.

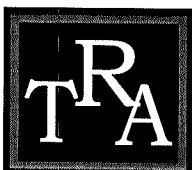
17 Q. -- is there anything significant enough that you
18 remember it today that prompted him to be put on a
19 one-year probation?

20 MS. WATERS:

21 Asked and answered.

22 THE WITNESS:

23 It would be the information that's
24 within the document. It would be significant enough. I
25 don't recall the details that are in it, but I guess



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1 from my standpoint, I would like to review the document
2 because it's generating a lot of conversation, and I
3 would like to fully answer your question about the
4 probationary period. I'm just not recalling that.

5 BY MS. BARNEY:

6 Q. Okay. My question is, as you sit here today, can
7 you remember anything significant that was in his note
8 to file, that is significant to you as his supervisor?

9 MS. WATERS:

10 Asked and answered.

11 THE WITNESS:

12 It's all significant to me because it's
13 listed in his note to file.

14 BY MS. BARNEY:

15 Q. But you can't remember any of it today; is that
16 right?

17 MS. WATERS:

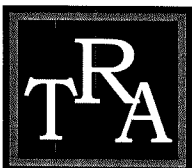
18 Asked and answered.

19 THE WITNESS:

20 I don't recall it. It's not that I
21 don't remember. I don't recall that information, and
22 nothing can be supplied to me to show so I can see it.

23 BY MS. BARNEY:

24 Q. So if somebody came up to you and they didn't
25 have the document like I'm doing right now and they



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1 said, "Tell me what Mr. Simoneaux did that was so
2 significant to you, Ms. Cromwell, that you supported the
3 note to file that he received in May of 2012," can you
4 remember any of the conduct that was at issue?

5 A. My response to that would be I would need to see
6 the document because he was placed on that note to file
7 due to the information that was listed in there. And
8 because I can't remember does not mean that it's not
9 significant. It's just I don't recall the information.

10 Q. Okay. So the answer is you don't remember it?

11 A. The answer is I don't recall it.

12 Q. Have you ever been involved in calculating gas
13 leaks at DuPont Burnside?

14 A. No.

15 Q. You've never used a spreadsheet or anything like
16 that to calculate a gas leak?

17 A. No.

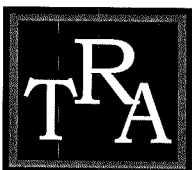
18 Q. If, I think, T.J. Ozbun testified that the only
19 people he knew who could calculate a gas leak at DuPont
20 were Dan Monholland and Kerry Long, would you dispute
21 that?

22 MS. WATERS:

23 Object to form.

24 THE WITNESS:

25 I would not dispute those two people



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1 that are mentioned, but that's not to say that -- it's
2 just because of the roles that they're in.

3 BY MS. BARNEY:

4 Q. Do you know of anybody else at Burnside, other
5 than maybe those two people, who have ever calculated a
6 gas leak using that spreadsheet formula that DuPont has
7 for doing that?

8 A. Possibly Lewis.

9 Q. Lewis Chu; right. And I'm glad you pointed that
10 out. He doesn't reside at Burnside; right?

11 A. Correct.

12 Q. But he had some involvement with the Burnside
13 site and he certainly could have done those
14 calculations; right?

15 A. He was a part of the Burnside site.

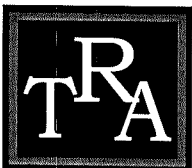
16 Q. So he's another person who obviously could do
17 those calculations; right?

18 A. Yes.

19 Q. Okay. So other than Lewis Chu, Kerry Long and
20 Dan Monholland, do you know of anybody at DuPont who has
21 done such calculations of gas leaks?

22 A. Not that I can recall.

23 Q. And you have never supplied gas leak calculation
24 information to Tom Miller in connection with preparing
25 an investigational report; is that right?



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1 A. Correct.

2 MS. WATERS:

3 I'm going to give a time warning, it's
4 3:51.

5 MS. BARNEY:

6 Yeah. We're not going to finish today
7 I'm afraid.

8 MS. WATERS:

9 Actually, 3:52.

10 MS. BARNEY:

11 I'm afraid we won't finish today.

12 BY MS. BARNEY:

13 Q. Have you ever been involved in gathering
14 information for an investigational report?

15 A. Possibly, yes.

16 Q. Anything to do with gas leaks?

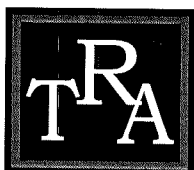
17 A. Possibly, yes.

18 Q. Do you specifically recall any of those
19 investigation efforts on your part?

20 A. No, I don't recall.

21 Q. I believe you looked at a document today before
22 your deposition that's Bates labeled 5 through 9, and
23 we'll mark it as Exhibit 7 to your deposition.

24 (Whereupon, Exhibit No. 7 was marked for
25 identification.)



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1 BY MS. BARNEY:

2 Q. Other than this morning, when is the last time
3 you saw this document, if any?

4 A. I can't recall.

5 Q. Do you know for sure whether you've saw it before
6 this morning or not?

7 A. I can't recall when I saw it prior to this day.

8 Q. Did you have anything to do with the chemical
9 released in this report being listed only as sulfur
10 dioxide and not sulfur trioxide?

11 MS. WATERS:

12 Object to form.

13 THE WITNESS:

14 Not that I can recall.

15 BY MS. BARNEY:

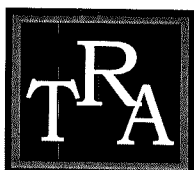
16 Q. Okay. You also looked at, this morning before
17 your deposition, what is marked as Exhibit B to the
18 original complaint, the TSCA training module; is that
19 right?

20 A. Yes.

21 Q. And I believe you testified that you've only seen
22 that on an annual basis; is that right?

23 A. Yes.

24 Q. Have you had any involvement while you've been at
25 DuPont Burnside in assessing whether something posed a



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1 substantial risk under TSCA?

2 A. Not that I can recall.

3 Q. Have you ever made any attempt to do that while
4 you've been at DuPont Burnside?

5 A. Not that I can recall.

6 Q. Have you ever steered any employee at DuPont
7 Burnside to any forms that might be on DuPont's system
8 related to TSCA?

9 A. Not that I can recall.

10 Q. Do you recall Leo Scott getting written up for
11 wearing PPE at the Burnside site?

12 A. Something to that effect, yes.

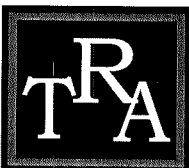
13 Q. Do you recall Mr. Scott claiming that he was
14 exposed to gas at the Burnside site that was leaking in
15 the acid plant?

16 A. He alleged that he was exposed, but he was not
17 sure. He was not sure if he was exposed to anything.

18 Q. Did you conduct any investigation into that
19 allegation?

20 A. I only investigated to the fact that I can recall
21 at this time as to why he did not report at the time
22 that the supposed situation occurred. He informed me of
23 that due to the bad taste in his mouth that he tasted or
24 experienced several days later.

25 Q. So that was the extent of your investigation?



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1 A. I couldn't investigate something I didn't know
2 about the day that it happened. He didn't tell me that.
3 He didn't inform me. He informed me several days later
4 that supposedly something had happened, but he didn't
5 report that at that time, the day that it supposedly
6 happened.

7 Q. And so you didn't do any further investigation;
8 is that right?

9 A. I can't recall.

10 Q. You said you investigated to see -- to the extent
11 of finding out when he reported it; right?

12 A. No. I investigated his situation that he was
13 experiencing, some physical situations that were not
14 normal to him.

15 Q. And what I'm trying to just confirm is that the
16 extent of that investigation was the timing. You didn't
17 do any other investigation; right?

18 MS. WATERS:

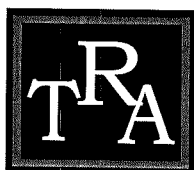
19 Object to form.

20 THE WITNESS:

21 I can't recall.

22 BY MS. BARNEY:

23 Q. If Mr. Simoneaux testified that he was getting
24 five weeks vacation when he was employed with DuPont,
25 would you have any reason to dispute that?



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MS. WATERS:

Object to form. Assumes facts.

THE WITNESS:

Can you repeat that question.

BY MS. BARNEY:

Q. If Mr. Simoneaux testified that he believes he was getting five weeks vacation before he left DuPont, as part of his employment with DuPont, would you have any reason to dispute that?

MS. WATERS:

Same objection.

THE WITNESS:

I would have to check my info before I would dispute it or not.

BY MS. BARNEY:

Q. And as you sit here right now, you don't have any reason to dispute it; right?

MS. WATERS:

Same objection.

THE WITNESS:

I don't know. It would be based -- his vacation time was based on the amount of years that he has, so I don't know that information.

BY MS. BARNEY:

Q. So if he had been there 22 years, do you know



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1 whether or not he would have been getting five weeks
2 vacation?

3 A. He possibly could. His entitlement is five weeks
4 of vacation.

5 MS. WATERS:

6 It's four.

7 THE WITNESS:

8 Yes.

9 MS. BARNEY:

10 Do you want to talk about a date for
11 resumption or...

12 MS. WATERS:

13 I think we need to have Monique in that
14 conversation as well.

15 MS. BARNEY:

16 Okay. All right. Thank you,
17 Ms. Cromwell.

18 (Testimony concludes at 4:03 p.m.)
19
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1 WITNESS' CERTIFICATE:

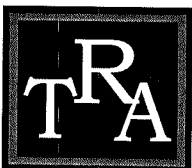
2
3 I, Elizabeth Cromwell-Keyes, read or have
4 had the foregoing testimony read to me and hereby
5 certify that it is a true and correct transcription of
6 my testimony, with the exception of any attached
7 corrections or changes.
8
9
10

11 Elizabeth Cromwell-Keyes
12

13
14 _____ Signed with corrections noted.

15 _____ Signed without corrections noted.
16
17

18 DATE OF DEPOSITION: 12/12/13
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1 REPORTER'S CERTIFICATE:
2

3 I, ELICIA H. WOODWORTH, Certified Court
4 Reporter in and for the State of Louisiana, as the
5 officer before whom this testimony was taken, do hereby
6 certify that Elizabeth Cromwell-Keyes, after having been
7 duly sworn by me upon authority of R.S. 37:2554, did
8 testify as hereinbefore set forth in the foregoing 142
9 pages;

10 That this testimony was reported by me in
11 the stenotype reporting method, was prepared and
12 transcribed by me or under my personal direction and
13 supervision, and is a true and correct transcript to the
14 best of my ability and understanding;

15 That the transcript has been prepared in
16 compliance with transcript format required by statute or
17 by rules of the board, that I have acted in compliance
18 with the prohibition on contractual relationships, as
19 defined by Louisiana Code of Civil Procedure Article
20 1434 and in rules and advisory opinions of the board;

21 That I am not related to counsel or to the
22 parties herein, nor am I otherwise interested in the
23 outcome of this matter.
24

25 Dated this 14th day of January, 2014.



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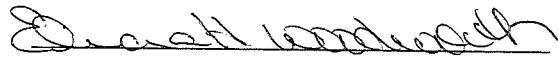
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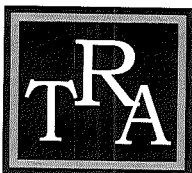
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